



International
Labour
Organization

100
1919-2019

Application of International Labour Standards 2019



REPORT III (Part A)

Report of the Committee
of Experts on the Application
of Conventions
and Recommendations

International Labour Conference, 108th Session, 2019

Report of the Committee of Experts on the Application of Conventions and Recommendations

(articles 19, 22, 23 and 35 of the Constitution)

**Third item on the agenda:
Information and reports on the application
of Conventions and Recommendations**

Report III (Part A)

General Report
and observations concerning particular countries

ISBN 978-92-2-131722-7 (print)
ISBN 978-92-2-131723-4 (Web pdf)
ISSN 0074-6681

First edition 2019

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The **Committee of Experts on the Application of Conventions and Recommendations** is an independent body composed of legal experts charged with examining the application of ILO Conventions and Recommendations by ILO member States. The annual report of the Committee of Experts covers numerous matters related to the application of ILO standards. The structure of the report, as modified in 2003, is divided into the following parts:

- (a) The **Reader's note** provides indications on the Committee of Experts and the Committee on the Application of Standards of the International Labour Conference (their mandate, functioning and the institutional context in which they operate) (**Part A, pages 1–4**).
- (b) **Part I: the General Report** describes the manner in which the Committee of Experts undertakes its work and the extent to which member States have fulfilled their constitutional obligations in relation to international labour standards, and it draws the attention to issues of general interest arising out of the Committee's work (**Part A, pages 5–40**).
- (c) **Part II: Observations concerning particular countries** cover the sending of reports, the application of ratified Conventions (see section I), and the obligation to submit instruments to the competent authorities (see section II) (**Part A, pages 41–641**).
- (d) **Part III: General Survey**, in which the Committee of Experts examines the state of the legislation and practice regarding a specific area covered by a given number of Conventions and Recommendations. This examination covers all member States regardless of whether or not they have ratified the given Conventions. The General Survey is published as a separate volume (Report III (Part B)) and this year it concerns the Social Protection Floors Recommendation, 2012 (No. 202) (**Part B**).

The report of the Committee of Experts is also available at: www.ilo.org/normes.

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Fundamental Conventions are in bold. Priority conventions are in italics.

- ★ Convention revised in whole or in part by a subsequent Convention or Protocol.
- Convention no longer open to ratification as a result of the entry into force of a revising Convention.
- ◆ Convention or Protocol not in force.
- Convention withdrawn.
- Convention abrogated.

1 Freedom of association, collective bargaining, and industrial relations

- C011 Right of Association (Agriculture) Convention, 1921 (No. 11)
- C084 Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)
- C087 **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**
- C098 **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**
- C135 Workers' Representatives Convention, 1971 (No. 135)
- C141 Rural Workers' Organisations Convention, 1975 (No. 141)
- C151 Labour Relations (Public Service) Convention, 1978 (No. 151)
- C154 Collective Bargaining Convention, 1981 (No. 154)

2 Forced labour

- C029 **Forced Labour Convention, 1930 (No. 29)**
- C105 **Abolition of Forced Labour Convention, 1957 (No. 105)**
- P029 Protocol of 2014 to the Forced Labour Convention, 1930

3 Elimination of child labour and protection of children and young persons

- ★ C005 Minimum Age (Industry) Convention, 1919 (No. 5)
- ★ C006 Night Work of Young Persons (Industry) Convention, 1919 (No. 6)
- ★ C010 Minimum Age (Agriculture) Convention, 1921 (No. 10)
- C015 **Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15)**
- C033 Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33)
- ★ C059 Minimum Age (Industry) Convention (Revised), 1937 (No. 59)
- C060 **Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60)**
- C077 Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)
- C078 Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)
- C079 Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79)
- C090 Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)
- ★ C123 Minimum Age (Underground Work) Convention, 1965 (No. 123)
- C124 Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)
- C138 **Minimum Age Convention, 1973 (No. 138)**
- C182 **Worst Forms of Child Labour Convention, 1999 (No. 182)**

4 Equality of opportunity and treatment

- C100 **Equal Remuneration Convention, 1951 (No. 100)**
- C111 **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**
- C156 Workers with Family Responsibilities Convention, 1981 (No. 156)

5 Tripartite consultation

- C144 *Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)*

6	Labour administration and inspection	
●	C063	Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)
★	C081	<i>Labour Inspection Convention, 1947 (No. 81)</i>
	C085	Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)
	C129	<i>Labour Inspection (Agriculture) Convention, 1969 (No. 129)</i>
	C150	Labour Administration Convention, 1978 (No. 150)
	C160	Labour Statistics Convention, 1985 (No. 160)
	P081	Protocol of 1995 to the Labour Inspection Convention, 1947
7	Employment policy and promotion	
	C002	Unemployment Convention, 1919 (No. 2)
●	C034	Fee-Charging Employment Agencies Convention, 1933 (No. 34)
	C088	Employment Service Convention, 1948 (No. 88)
●	C096	Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)
	C122	<i>Employment Policy Convention, 1964 (No. 122)</i>
	C159	Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
	C181	Private Employment Agencies Convention, 1997 (No. 181)
8	Vocational guidance and training	
	C140	Paid Educational Leave Convention, 1974 (No. 140)
	C142	Human Resources Development Convention, 1975 (No. 142)
9	Employment security	
	C158	Termination of Employment Convention, 1982 (No. 158)
10	Wages	
	C026	Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)
	C094	Labour Clauses (Public Contracts) Convention, 1949 (No. 94)
★	C095	Protection of Wages Convention, 1949 (No. 95)
	C099	Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)
	C131	Minimum Wage Fixing Convention, 1970 (No. 131)
	C173	Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)

11 Working time

- C001 Hours of Work (Industry) Convention, 1919 (No. 1)
- C004 Night Work (Women) Convention, 1919 (No. 4)
- C014 Weekly Rest (Industry) Convention, 1921 (No. 14)
- C020 Night Work (Bakeries) Convention, 1925 (No. 20)
- C030 Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)
- C031 Hours of Work (Coal Mines) Convention, 1931 (No. 31)
- C041 Night Work (Women) Convention (Revised), 1934 (No. 41)
- C043 Sheet-Glass Works Convention, 1934 (No. 43)
- C046 Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46)
- C047 Forty-Hour Week Convention, 1935 (No. 47)
- C049 Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49)
- C051 Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51)
- C052 Holidays with Pay Convention, 1936 (No. 52)
- C061 Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61)
- C067 Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67)
- ★ C089 Night Work (Women) Convention (Revised), 1948 (No. 89)
- ★ C101 Holidays with Pay (Agriculture) Convention, 1952 (No. 101)
- C106 Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)
- C132 Holidays with Pay Convention (Revised), 1970 (No. 132)
- C153 Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153)
- C171 Night Work Convention, 1990 (No. 171)
- C175 Part-Time Work Convention, 1994 (No. 175)
- P089 Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

12 Occupational safety and health

- C013 White Lead (Painting) Convention, 1921 (No. 13)
- C045 Underground Work (Women) Convention, 1935 (No. 45)
- C062 Safety Provisions (Building) Convention, 1937 (No. 62)
- C115 Radiation Protection Convention, 1960 (No. 115)
- C119 Guarding of Machinery Convention, 1963 (No. 119)
- C120 Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
- C127 Maximum Weight Convention, 1967 (No. 127)
- C136 Benzene Convention, 1971 (No. 136)
- C139 Occupational Cancer Convention, 1974 (No. 139)
- C148 Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)
- ★ C155 Occupational Safety and Health Convention, 1981 (No. 155)
- C161 Occupational Health Services Convention, 1985 (No. 161)
- C162 Asbestos Convention, 1986 (No. 162)
- C167 Safety and Health in Construction Convention, 1988 (No. 167)
- C170 Chemicals Convention, 1990 (No. 170)
- C174 Prevention of Major Industrial Accidents Convention, 1993 (No. 174)
- C176 Safety and Health in Mines Convention, 1995 (No. 176)
- C184 Safety and Health in Agriculture Convention, 2001 (No. 184)
- C187 Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)
- P155 Protocol of 2002 to the Occupational Safety and Health Convention, 1981

13 Social security

- ★ C012 Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)
- ★ C017 Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
- ★ C018 Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)
- C019 Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
- ★ C024 Sickness Insurance (Industry) Convention, 1927 (No. 24)
- ★ C025 Sickness Insurance (Agriculture) Convention, 1927 (No. 25)
- C035 Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35)
- C036 Old-Age Insurance (Agriculture) Convention, 1933 (No. 36)
- C037 Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)
- C038 Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)
- C039 Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39)
- C040 Survivors' Insurance (Agriculture) Convention, 1933 (No. 40)
- ★ C042 Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)
- C044 Unemployment Provision Convention, 1934 (No. 44)
- C048 Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48)
- ★ C102 Social Security (Minimum Standards) Convention, 1952 (No. 102)
- C118 Equality of Treatment (Social Security) Convention, 1962 (No. 118)
- C121 Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)
- C128 Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)
- C130 Medical Care and Sickness Benefits Convention, 1969 (No. 130)
- C157 Maintenance of Social Security Rights Convention, 1982 (No. 157)
- C168 Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)

14 Maternity protection

- ★ C003 Maternity Protection Convention, 1919 (No. 3)
- C103 Maternity Protection Convention (Revised), 1952 (No. 103)
- C183 Maternity Protection Convention, 2000 (No. 183)

15 Social policy

- ★ C082 Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82)
- C117 Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)

16 Migrant workers

- C021 Inspection of Emigrants Convention, 1926 (No. 21)
- C066 Migration for Employment Convention, 1939 (No. 66)
- C097 Migration for Employment Convention (Revised), 1949 (No. 97)
- C143 Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

17 Seafarers

- ★ C007 Minimum Age (Sea) Convention, 1920 (No. 7)
- ★ C008 Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)
- ★ C009 Placing of Seamen Convention, 1920 (No. 9)
- ★ C016 Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
- ★ C022 Seamen's Articles of Agreement Convention, 1926 (No. 22)
- ★ C023 Repatriation of Seamen Convention, 1926 (No. 23)
- ★● C053 Officers' Competency Certificates Convention, 1936 (No. 53)
- ★◆● C054 Holidays with Pay (Sea) Convention, 1936 (No. 54)
- ★● C055 Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
- ★● C056 Sickness Insurance (Sea) Convention, 1936 (No. 56)
- ★◆● C057 Hours of Work and Manning (Sea) Convention, 1936 (No. 57)
- ★● C058 Minimum Age (Sea) Convention (Revised), 1936 (No. 58)
- ★● C068 Food and Catering (Ships' Crews) Convention, 1946 (No. 68)
- ★● C069 Certification of Ships' Cooks Convention, 1946 (No. 69)
- ★◆● C070 Social Security (Seafarers) Convention, 1946 (No. 70)
- C071 Seafarers' Pensions Convention, 1946 (No. 71)
- ★◆● C072 Paid Vacations (Seafarers) Convention, 1946 (No. 72)
- ★● C073 Medical Examination (Seafarers) Convention, 1946 (No. 73)
- ★● C074 Certification of Able Seamen Convention, 1946 (No. 74)
- ★◆● C075 Accommodation of Crews Convention, 1946 (No. 75)
- ★◆● C076 Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)
- ★● C091 Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)
- ★● C092 Accommodation of Crews Convention (Revised), 1949 (No. 92)
- ★◆● C093 Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)
- C108 Seafarers' Identity Documents Convention, 1958 (No. 108)
- ★◆● C109 Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)
- ★● C133 Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
- ★● C134 Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)
- ★● C145 Continuity of Employment (Seafarers) Convention, 1976 (No. 145)
- ★● C146 Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)
- ★● C147 Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
- ★● C163 Seafarers' Welfare Convention, 1987 (No. 163)
- ★● C164 Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
- ★● C165 Social Security (Seafarers) Convention (Revised), 1987 (No. 165)
- ★● C166 Repatriation of Seafarers Convention (Revised), 1987 (No. 166)
- ★● C178 Labour Inspection (Seafarers) Convention, 1996 (No. 178)
- ★● C179 Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
- ★● C180 Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)
- C185 Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)
- MLC, 2006 Maritime Labour Convention, 2006 (MLC, 2006)
- P147 Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976

18 Fishers

- ★ C112 Minimum Age (Fishermen) Convention, 1959 (No. 112)
- C113 Medical Examination (Fishermen) Convention, 1959 (No. 113)
- C114 Fishermen's Articles of Agreement Convention, 1959 (No. 114)
- C125 Fishermen's Competency Certificates Convention, 1966 (No. 125)
- C126 Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)
- C188 Work in Fishing Convention, 2007 (No. 188)

19 Dockworkers

- C027 Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27)
- C028 Protection against Accidents (Dockers) Convention, 1929 (No. 28)
- C032 Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32)
- C137 Dock Work Convention, 1973 (No. 137)
- C152 Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)

20 Indigenous and tribal peoples

- C050 Recruiting of Indigenous Workers Convention, 1936 (No. 50)
- C064 Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64)
- C065 Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65)
- C086 Contracts of Employment (Indigenous Workers) Convention, 1947 (No. 86)
- C104 Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 (No. 104)
- C107 Indigenous and Tribal Populations Convention, 1957 (No. 107)
- C169 Indigenous and Tribal Peoples Convention, 1989 (No. 169)

21 Specific categories of workers

- C083 Labour Standards (Non-Metropolitan Territories) Convention, 1947 (No. 83)
- ★ C110 Plantations Convention, 1958 (No. 110)
- C149 Nursing Personnel Convention, 1977 (No. 149)
- C172 Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)
- C177 Home Work Convention, 1996 (No. 177)
- C189 Domestic Workers Convention, 2011 (No. 189)
- P110 Protocol of 1982 to the Plantations Convention, 1958

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- C116 Final Articles Revision Convention, 1961 (No. 116)

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Reader's note

Overview of the ILO supervisory mechanisms

Since its creation in 1919, the mandate of the International Labour Organization (ILO) has included adopting international labour standards, promoting their ratification and application in its member States, and the supervision of their application as a fundamental means of achieving its objectives. In order to monitor the progress of member States in the application of international labour standards, the ILO has developed supervisory mechanisms which are unique at the international level.¹

Under article 19 of the ILO Constitution, a number of obligations arise for member States upon the adoption of international labour standards, including the requirement to submit newly adopted standards to national competent authorities and the obligation to report periodically on the measures taken to give effect to the provisions of unratified Conventions and Recommendations.

A number of supervisory mechanisms exist whereby the Organization examines the standards-related obligations of member States deriving from ratified Conventions. This supervision occurs both in the context of a regular procedure through periodic reports (article 22 of the ILO Constitution),² as well as through special procedures based on representations or complaints to the Governing Body made by ILO constituents (articles 24 and 26 of the Constitution, respectively). Moreover, since 1950, a special procedure has existed whereby complaints relating to freedom of association are referred to the Committee on Freedom of Association of the Governing Body. The Committee on Freedom of Association may also examine complaints relating to member States that have not ratified the relevant freedom of association Conventions.

Role of employers' and workers' organizations

As a natural consequence of its tripartite structure, the ILO was the first international organization to associate the social partners directly in its activities. The participation of employers' and workers' organizations in the supervisory mechanisms is recognized in the Constitution under article 23, paragraph 2, which provides that reports and information submitted by governments in accordance with articles 19 and 22 must be communicated to the representative organizations.

In practice, representative employers' and workers' organizations may submit to their government's comments on the reports concerning the application of international labour standards. They may, for instance, draw attention to a discrepancy in law or practice regarding the application of a ratified Convention. Furthermore, any employers' or workers' organization may submit comments on the application of international labour standards directly to the Office. The Office will then forward these comments to the government concerned, which will have an opportunity to respond before the comments are examined by the Committee of Experts except in exceptional circumstances.³

¹ For detailed information on all the supervisory procedures, see the *Handbook of procedures relating to international labour Conventions and Recommendations*, International Labour Standards Department, International Labour Office, Geneva, Rev., 2012.

² Reports are requested every three years for the fundamental Conventions and governance Conventions, and from now on, every six years for other Conventions. In fact, at its 334th Session the Governing Body decided to expand the reporting cycle for the latter category of Conventions from five to six years (Document GB.334/INS/5). Reports are due for groups of Conventions according to subject matter.

³ See paras 88–96 of the General Report.

Origins of the Conference Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations

During the early years of the ILO, both the adoption of international labour standards and the regular supervisory work were undertaken within the framework of the plenary sitting of the annual International Labour Conference. However, the considerable increase in the number of ratifications of Conventions rapidly led to a similarly significant increase in the number of annual reports submitted. It soon became clear that the plenary sitting of the Conference would not be able to examine all of these reports at the same time as adopting standards and discussing other important matters. In response to this situation, the Conference in 1926 adopted a resolution⁴ establishing on an annual basis a Conference Committee (subsequently named the Conference Committee on the Application of Standards) and requesting the Governing Body to appoint a technical committee (subsequently named the Committee of Experts on the Application of Conventions and Recommendations) which would be responsible for drawing up a report for the Conference. These two committees have become the two pillars of the ILO supervisory system.

Committee of Experts on the Application of Conventions and Recommendations

Composition

The Committee of Experts is composed of 20 members, who are outstanding legal experts at the national and international levels. The members of the Committee are appointed by the Governing Body upon the recommendation of its Officers based on proposals by the Director-General. Appointments are made in a personal capacity from among impartial persons of competence and independent standing drawn from all regions of the world, in order to enable the Committee to have at its disposal first-hand experience of different legal, economic and social systems. The appointments are made for renewable periods of three years. In 2002, the Committee decided that there would be a limit of 15 years' service for all members, representing a maximum of four renewals after the first three year appointment. At its 79th Session (November–December 2008), the Committee decided that its Chairperson would be elected for a period of three years, which would be renewable once for a further three years. At the start of each session, the Committee would also elect a Reporter.

Work of the Committee

The Committee of Experts meets annually in November–December. In accordance with the mandate given by the Governing Body,⁵ the Committee is called upon to examine the following:

- the periodic reports under article 22 of the Constitution on the measures taken by member States to give effect to the provisions of the Conventions to which they are parties;
- the information and reports concerning Conventions and Recommendations communicated by member States in accordance with article 19 of the Constitution;
- information and reports on the measures taken by member States in accordance with article 35 of the Constitution.⁶

The task of the Committee of Experts is to indicate the extent to which each member State's legislation and practice are in conformity with ratified Conventions and the extent to which member States have fulfilled their obligations under the ILO Constitution in relation to standards. In carrying out this task, the Committee adheres to its principles of independence, objectivity and impartiality.⁷ The comments of the Committee of Experts on the fulfilment by member States of their standards-related obligations take the form of either observations or direct requests. Observations are generally used in more serious or long-standing cases of failure to fulfil obligations. They are reproduced in the annual report of the Committee of Experts, which is then submitted to the Conference Committee on the Application of Standards in June every year. Direct requests are not published in the report of the Committee of Experts, but are communicated directly to the government concerned and are available online.⁸ In addition, the Committee of Experts examines, in the context of the General Survey, the state of the legislation and practice concerning a specific area covered by a given

⁴ Appendix VII, *Record of Proceedings* of the Eighth Session of the International Labour Conference, 1926, Vol. 1.

⁵ Terms of reference of the Committee of Experts, Minutes of the 103rd Session of the Governing Body (1947), Appendix XII, para. 37.

⁶ Article 35 covers the application of Conventions to non-metropolitan territories.

⁷ See para. 32 of the General Report.

⁸ See para. 66 of the General Report. Observations and direct requests are accessible through the NORMLEX database available at: www.ilo.org/normes.

number of Conventions and Recommendations chosen by the Governing Body.⁹ The General Survey is based on the reports submitted in accordance with articles 19 and 22 of the Constitution, and it covers all member States regardless of whether or not they have ratified the concerned Conventions. This year's General Survey covers the Social Protection Floors Recommendation, 2012 (No. 202).

Report of the Committee of Experts

As a result of its work, the Committee produces an annual report. The report consists of two volumes.

The first volume (Report III (Part A))¹⁰ is divided into two parts:

- **Part I: the General Report** describes, on the one hand, the progress of the work of the Committee of Experts and specific matters relating to it that have been addressed by the Committee and, on the other hand, the extent to which member States have fulfilled their constitutional obligations in relation to international labour standards.
- **Part II: Observations concerning particular countries** on the fulfilment of obligations in respect of the submission of reports, the application of ratified Conventions grouped by subject matter and the obligation to submit instruments to the competent authorities.

The second volume contains the **General Survey** (Report III (Part B)).

Committee on the Application of Standards of the International Labour Conference

Composition

The Conference Committee on the Application of Standards is one of the two standing committees of the Conference. It is tripartite and therefore comprises representatives of governments, employers and workers. At each session, the Committee elects its Officers, which include a Chairperson (Government member), two Vice-Chairpersons (Employer member and Worker member) and a Reporter (Government member).

Work of the Committee

The Conference Committee on the Application of Standards meets annually at the Conference in June. Pursuant to article 7 of the Standing Orders of the Conference, the Committee shall consider:

- measures taken to give effect to ratified Conventions (article 22 of the Constitution);
- reports communicated in accordance with article 19 of the Constitution (General Surveys);
- measures taken in accordance with article 35 of the Constitution (non-metropolitan territories).

The Committee is required to present its report to the plenary sitting of the Conference.

Following the independent technical examination carried out by the Committee of Experts, the proceedings of the Conference Committee on the Application of Standards provide an opportunity for the representatives of governments, employers and workers to examine together the manner in which States are fulfilling their standards-related obligations. Governments are able to elaborate on information previously supplied to the Committee of Experts, indicate any further measures taken or proposed since the last session of the Committee of Experts, draw attention to difficulties encountered in the fulfilment of obligations and seek guidance as to how to overcome such difficulties.

The Conference Committee on the Application of Standards discusses the report of the Committee of Experts, and the documents submitted by governments. The work of the Conference Committee starts with a general discussion based essentially on the General Report of the Committee of Experts. The Conference Committee then discusses the General Survey. It also examines cases of serious failure to fulfil reporting and other standards-related obligations. Finally, the

⁹ By virtue of the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008, a system of annual recurrent discussions in the framework of the Conference has been established to enable the Organization to gain a better understanding of the situation and varying needs of its members in relation to the four strategic objectives of the ILO, namely: employment; social protection; social dialogue and tripartism; and fundamental principles and rights at work. The Governing Body considered that the recurrent reports prepared by the Office for the purposes of the Conference discussion should benefit from the information on the law and practice of member States contained in General Surveys, as well as from the outcome of the discussions of General Surveys by the Conference Committee. In principle, the subjects of General Surveys have therefore been aligned with the four strategic objectives of the ILO. The importance of the coordination between the General Surveys and recurrent discussions was reaffirmed in the context of the adoption of a five-year cycle of recurrent discussions by the Governing Body in November 2016. In the context of discussing measures to strengthen the supervisory system in November 2018, the Governing Body invited the Committee of Experts to make proposals on its possible contribution to optimizing the use made of article 19, paragraphs 5(e) and 6(d), of the Constitution, in particular by considering measures to improve the presentation of General Surveys, so as to ensure a user-friendly approach and format that maximizes their value for constituents (document GB.334/INS/5).

¹⁰ This citation reflects the agenda of the International Labour Conference, which contains as a permanent item, item III relating to information and reports on the application of Conventions and Recommendations.

Conference Committee examines a number of individual cases concerning the application of ratified Conventions which have been the subject of observations by the Committee of Experts. At the end of the discussion of each individual case, the Conference Committee adopts conclusions on the case in question.

In its report ¹¹ submitted to the plenary sitting of the Conference for adoption, the Conference Committee on the Application of Standards may invite the member State whose case has been discussed to accept a technical assistance mission by the International Labour Office to increase its capacity to fulfil its obligations, or may propose other types of missions. The Conference Committee may also request a government to submit additional information or address specific concerns in its next report to the Committee of Experts. The Conference Committee also draws the attention of the Conference to certain cases, such as cases of progress and cases of serious failure to comply with ratified Conventions.

The Committee of Experts and the Conference Committee on the Application of Standards

In numerous reports, the Committee of Experts has emphasized the importance of the spirit of mutual respect, cooperation and responsibility that has always existed in relations between the Committee of Experts and the Conference Committee. It has accordingly become the practice for the Chairperson of the Committee of Experts to attend the general discussion of the Conference Committee and the discussion on the General Survey as an observer, with the opportunity to address the Conference Committee at the opening of the general discussion and to make remarks at the end of the discussion on the General Survey. Similarly, the Employer and Worker Vice-Chairpersons of the Conference Committee are invited to meet the Committee of Experts during its sessions and discuss issues of common interest within the framework of a special session held for that purpose.

¹¹ The report is published in the *Record of Proceedings* of the Conference. Since 2007, it has also been issued in a separate publication. See, for the last report, *Conference Committee on the Application of Standards: Extracts from the Record of Proceedings*, International Labour Conference, 107th Session, Geneva, 2018.



Part I. General Report

I. Introduction

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by member States of the International Labour Organization on the action taken with regard to Conventions and Recommendations, held its 89th Session in Geneva from 21 November to 8 December 2018. The Committee has the honour to present its report to the Governing Body.

Composition of the Committee

2. The composition of the Committee is as follows: Mr Shinichi AGO (Japan), Ms Lia ATHANASSIOU (Greece), Ms Leila AZOURI (Lebanon), Mr Lelio BENTES CORRÊA (Brazil), Mr James J. BRUDNEY (United States), Mr Halton CHEADLE (South Africa), Ms Graciela Josefina DIXON CATON (Panama), Mr Rachid FILALI MEKNASSI (Morocco), Mr Abdul G. KOROMA (Sierra Leone), Mr Alain LACABARATS (France), Ms Elena E. MACHULSKAYA (Russian Federation), Ms Karon MONAGHAN (United Kingdom), Mr Vitit MUNTARBHORN (Thailand), Ms Rosemary OWENS (Australia), Ms Monica PINTO (Argentina), Mr Paul-Gérard POUGOUÉ (Cameroon), Mr Raymond RANJEVA (Madagascar), Ms Kamala SANKARAN (India), Ms Deborah THOMAS-FELIX (Trinidad and Tobago) and Mr Bernd WAAS (Germany). Appendix I of the General Report contains brief biographies of all the Committee members.

3. The Committee noted that Mr Cheadle, who had been a member of the Committee since 2004, would be completing his 15-year mandate at the end of this session. The Committee expressed its deep appreciation for the outstanding manner in which Mr Cheadle had carried out his duties during his service on the Committee.

4. During its session, the Committee functioned with a full composition of 20 members and welcomed Ms Kamala Sankaran, nominated by the Governing Body at its 334th Session (October–November 2018).

5. For the sixth year, Mr Koroma continued his mandate as Chairperson of the Committee. As per the 2008 Committee decision that its Chairperson would be elected for a period of three years, renewable once, the Committee elected Judge Graciela Dixon Caton as its new Chairperson as from 2019. Mr Ago was elected as Reporter.

Working methods

6. Consideration of its working methods by the Committee of Experts has been an ongoing process since its establishment. In this process, the Committee has always given due consideration to the views expressed by the tripartite constituents. In recent years, in its reflection on possible improvements and the strengthening of its working methods, the Committee of Experts directed its efforts towards identifying ways to adapt its working methods so as to perform its functions in the best and most efficient manner possible and, in so doing, assist member States in meeting their obligations in relation to international labour standards and enhance the functioning of the supervisory system.

7. In order to guide the Committee's reflection on continuous improvement of its working methods, a subcommittee on working methods was set up in 2001 with the mandate to examine the working methods of the Committee and any related subjects, in order to make appropriate recommendations to the Committee. This year, under the guidance of Mr Bentes Corrêa, who was elected as its Chairperson, the subcommittee on working methods met for the 18th time. The subcommittee on working methods focused its discussions on four main issues: (i) the implications of the Governing Body discussions and decisions on the Standards Initiative for the working methods of the Committee; (ii) the treatment of observations submitted by employers' and workers' organizations under article 23, paragraph 2, of the ILO Constitution; (iii) improvements in the streamlining of the treatment of repetitions and urgent appeals; and (iv) reinforcement of the deadlines for receipt of article 22 reports.

8. With regard to point (i) above, the subcommittee discussed the important decisions taken by the Governing Body at its 334th Session and their implications for the Committee's working methods. The subcommittee gave particular consideration to the Governing Body's request for proposals with a view to optimizing the use made of article 19, paragraphs 5(e) and 6(d), of the Constitution, in particular measures to improve the presentation of General Surveys, so as to ensure a user-friendly approach and format that maximizes their value for constituents. The Committee advised the secretariat which will seek to present the General Survey in a revised format next year possibly with an executive summary highlighting salient points. It also discussed various modalities for the examination of General Surveys taking full advantage of the electronic document management system and other Information Technology (IT) enhancements under way following previous Governing Body decisions to strengthen the supervisory mechanism. The Committee also had an opportunity to discuss the pilot project for the establishment of electronic baselines which would facilitate reporting by governments and information sharing on compliant practices. The Experts were particularly interested in this project and will continue to follow closely its development in collaboration with the Office.

9. With regard to point (ii) above, at its last session, the Committee discussed the implications that a new six-year reporting cycle for technical Conventions might have on the criteria for the examination of observations submitted by employers' and workers' organizations outside the regular reporting cycle. The Committee indicated its willingness to consider the manner in which it might broaden the very strict criteria for breaking its cycle of review when receiving comments from workers' or employers' organizations on a specific country under article 23, paragraph 2, of the ILO Constitution and decided that inspiration in this regard could be drawn from those criteria used for "footnoting" cases. At its 334th Session, the Governing Body decided to approve a thematic grouping of Conventions for reporting purposes under a six-year cycle for the technical Conventions with the understanding that the Committee of Experts further reviews, clarifies and, where appropriate, broadens the criteria for breaking the reporting cycle with respect to technical Conventions. Based on an in-depth discussion, the Committee reached decisions in this regard. The result of its discussion is reflected in paragraphs 94–104 below.

10. With regard to point (iii) above, the Committee decided to reinforce the practice of urgent appeals¹ that it launched last year drawing on experience with the implementation of this decision. Already at this session, the Committee has issued urgent appeals to eight countries which have failed to send a first report for at least three years (see below paragraph 59). The Committee decided that, as of its next session, it will generalize this practice by issuing urgent appeals in all cases where article 22 reports have not been received for three consecutive years. As a result, repetitions of previous comments will be limited to a maximum of three years, following which the Convention's application will be examined in substance by the Committee on the basis of publicly available information, even if the government has not sent a report, thus ensuring a review of the application of ratified Conventions at least once within the regular reporting cycle. The repetition language will follow a certain "escalation" in relation to how many times the government has failed to report:

- first year: simple repetition, the Committee will note that the report has not been received;
- second year: the Committee will note with regret that the report has not been received;
- third year: the Committee will note with deep regret that the report has not been received and issue an urgent appeal, informing the government that if a report is not received in time for examination by the Committee at its next session, the latter will proceed to examine the application of the Convention in the country in question on the basis of information at its disposal;
- fourth year: the Committee will carry out an examination even if the government has not sent its report.

11. With regard to point (iv) above, the Committee decided to distinguish more clearly between article 22 reports received after the 1 September deadline, the examination of which might be deferred due to the late arrival, and reports received by this deadline, the examination of which might be deferred for other reasons (for example need for translation into the ILO working languages). The Committee was pleased to note the information provided by the Office on the potential medium-term impact of the Governing Body decisions in the framework of the Standards Initiative, from the point of view of maintaining the sustainability and effectiveness of the supervisory mechanism in the light of the constantly increasing number of ratifications and consequent reporting obligations.

Relations with the Conference Committee on the Application of Standards

12. A spirit of mutual respect, cooperation and responsibility has consistently prevailed over the years in the Committee's relations with the Committee on the Application of Standards of the International Labour Conference. In this context, the Committee once again welcomed the participation of its Chairperson in the general discussion of the Committee on the Application of Standards at the 107th Session of the International Labour Conference (May–June 2018). It noted the decision by the Conference Committee to request the Director-General to renew this invitation to the Chairperson of the Committee of Experts for the 108th Session (June 2019) of the Conference. The Committee of Experts accepted this invitation.

¹ See para. 59 of the General Report.

13. The Chairperson of the Committee of Experts invited the Employer Vice-Chairperson (Ms Sonia Regenbogen) and the Worker Vice-Chairperson (Mr Marc Leemans) to participate in a special sitting of the Committee at its present session. They both accepted this invitation. An interactive and thorough exchange of views took place on matters of common interest.

14. Both Vice-Chairpersons appreciated the opportunity to exchange views and experiences between supervisory bodies in a positive environment.

15. The Worker Vice-Chairperson said that the special sitting was an opportunity to share experiences and mutually learn from each other. He observed that both Committees were part of an authoritative supervisory system, sharing the goal of effectively contributing towards the implementation of international labour standards even though they had distinctive ways to accomplish this goal. Their collaboration was of critical importance for the fulfilment of the ILO's mandate and the Declaration of Philadelphia in the light of the ILO's Centenary. The Conference Committee had great respect for the neutral, principled and independent manner in which the Committee of Experts had been carrying out its mandate. The Worker Vice-Chairperson congratulated the Committee for the enormously valuable work it carried out and underlined the contribution of workers' and employers' organizations to the good functioning of the supervisory mechanism through the high number of observations they had made again this year under article 23, paragraph 2, of the ILO Constitution. The report delivered to the Conference Committee in 2018 was once again of very high quality and allowed for rich and robust discussions. The Worker Vice-Chairperson appreciated that the Committee of Experts functioned as the backbone of the entire supervisory system by regularly examining the follow-up to the discussions of the Conference Committee, the recommendations of ad hoc tripartite committees established to examine representations under article 24 of the ILO Constitution and the recommendations of Commissions of Inquiry established under article 26 of the ILO Constitution to ensure overall coherence in the supervisory system.

16. The Worker Vice-Chairperson indicated that the new practice of urgent appeals introduced by the Committee of Experts was an innovative and compelling approach to address the longstanding problem of serious reporting failures. He thanked the Committee for the balance it maintained in the selection of double-footnoted cases on both technical and fundamental Conventions. He also referred to the need to maintain a regional balance in the selection of double footnotes and suggested that the two Committees be aligned as much as possible in this regard, account being taken of the gravity of each case which should remain the main criterion for double footnotes. In light of the secretariat's heavy workload it was also important to devise ways to ensure that serious cases and observations by the social partners were not excluded from review in the year in which they were due. He called for attention to be given to technical Conventions such as those concerning social security and occupational safety and health for example. This was all the more important in the light of the decision taken in the framework of the Standards Initiative to extend the reporting cycle for technical Conventions to six years. In this respect, he welcomed the Committee's indication in last year's report that it was considering broadening the criteria for breaking the reporting cycle when observations were received from employers' and workers' organizations under article 23, paragraph 2, of the ILO Constitution and the information shared by the Committee on the decisions reached on this question at its current session.

17. While an accessible and transparent report was necessary, the Worker Vice-Chairperson emphasized that it was in the interest of all constituents to have a complete report. Making comments in the form of observations where possible, instead of direct requests, was important to the workers so that they could have a discussion at the Conference Committee. Clear criteria for distinguishing observations from direct requests were important for reasons of coherence and legal certainty. More generally, the shortening of the report in recent years was seen as having an unexpected impact on tripartite engagement both at the national and ILO levels. The previously more complete and elaborate format of the report allowed for a better discussion of cases by the Conference Committee as details and clarity were necessary both for a good discussion and in order to guide the constituents on measures conducive to the effective application of ratified Conventions.

18. The Worker Vice-Chairperson, responding to certain comments by the Employer Vice-Chairperson, added that, as the Experts had no doubt observed, the right to strike remained a subject of divergence between the Worker and Employer members of the Conference Committee. Despite this, the tripartite constituents had recognized the mandate of the Committee of Experts and in this framework the Experts continued to examine the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), stating for the last 70 years that the right to strike was an inherent part of the right to freedom of association and the Convention. Judicial bodies and other institutions continued to rely on the views of the Experts and cite them in reaching important decisions like the one recently adopted by the European Court of Human Rights, confirming that the right to strike fell under Article 11 of the European Convention on Human Rights as an important aspect of freedom of association.² In reaching this decision, the Court had relied explicitly on the recommendations of the Committee of Experts and the Committee on Freedom of Association. To maintain its authoritativeness, the Committee of Experts must remain impartial and consistent in exercising its mandate. Concerns related to the interpretation of Conventions as per the ILO Constitution have to be addressed by provisions contained in its article 37. He concluded by wishing the Committee success in its deliberations.

² Application No. 44873/09; ECHR 393 (2018).

19. The Employer Vice-Chairperson underlined that constant and direct dialogue between the two Committees, along with the Office, was of utmost importance, not only in order to guide constituents towards a better application of ratified instruments but also for the Experts to understand the realities and needs of the constituents as users of the system. This year the Experts' work would have particular visibility and draw much interest in light of the Centenary. This was an opportunity to discuss how transparency, participation and good governance could be further improved among the supervisory bodies. The Employer Vice-Chairperson briefed the Experts on the outcomes of the Conference Committee which had demonstrated once again its capacity to lead a results-oriented tripartite dialogue and allow for divergent views, where these existed, to be voiced in a spirit of respect and mutual understanding. The place reserved for cases of progress in the discussion before the Conference Committee was of central importance for the Employers, and the Centenary year was the appropriate time to ensure that discussion in the Conference Committee served to highlight important cases of progress. She invited the Experts to highlight cases showcasing exemplary practice in order to facilitate the work of the Conference Committee.

20. The Employer Vice-Chairperson also referred to her group's position on the right to strike in a spirit of constructive dialogue highlighting the viewpoint of the users of the Committee of Experts' report. She observed that around two-thirds of the observations on Convention No. 87, as well as most of the 52 direct requests on this Convention, dealt in one way or another with that right. According to these figures, hardly any country fully lived up to the Experts' interpretations on the right to strike, reflecting a significant discrepancy between the Experts' one-size-fits-all-type rules on the right to strike and the much more diverse reality of industrial relations systems. While she recognized a right to industrial action in principle, she considered that the right level to set detailed rules on this sensitive matter was at the national level. This had been the point of view of the tripartite constituents at the International Labour Conference at the time of adoption of Convention No. 87 and was in essence reconfirmed in the 2015 joint statement of the employers' and workers' groups, as well as in the Government group's statement.

21. Another subject she highlighted was the differentiation between observations and direct requests. The criteria set by the Committee of Experts were not fully clear and much latitude seemed to apply in classifying comments under one or the other category. As direct requests were not included in the Committee of Experts' report the substantive questions they concerned were removed from tripartite scrutiny. She suggested that the Experts might wish to consider refining the criteria and erring towards classifying a comment as an observation except if it clearly fell in the category of direct requests.

22. The Employer Vice-Chairperson was pleased to note that the Experts consistently followed up on the conclusions reached by the Conference Committee on individual cases and expressed the hope that the Experts would continue to provide this consideration which created important synergies and coherence between the two pillars of the supervisory system. Looking forward to 2019, the Employer Vice-Chairperson informed the Committee of Experts that the working group on working methods of the Conference Committee had met twice this year in March and November 2018, taking a number of concrete decisions to make the work of the Conference Committee more transparent, efficient and impactful. For example, the Conference Committee reports as of 2019 would contain verbatim records of all discussions thereby increasing transparency even further while saving the Office costs and time in preparing these reports. Given the emphasis placed by the government members of the Conference Committee to ensuring balance in the list of cases considered from a geographical and subject matter point of view, it would be very helpful if the Experts provided a short explanation of the reasons for double footnoting cases. This would allow the two Vice-Chairpersons to better present the reasons for selecting these cases during the briefing they provided to government delegates. She fully supported the comments of the Worker Vice-Chairperson on the need for additional attention to be given to technical Conventions both when placing double footnotes and more generally. Both Vice-Chairpersons sought observations on technical Conventions that would constitute a good basis for a meaningful discussion.

23. The Employer Vice-Chairperson finally sought clarification concerning the progress of discussions on the working methods of the Committee of Experts, with respect in particular of the constantly increasing workload, and invited, to the extent operationally possible, further dialogue between the two bodies. The Centenary year was not only an occasion to reflect on past successes but also an opportunity to continue to reflect on ways to strengthen the supervisory system with courage and ambition, based on a better grasp of constituents' needs and priorities and a more user-friendly, clear and concise presentation of findings and recommendations. The Office made an important contribution towards improved effectiveness as well as support to governments that failed to comply with their reporting obligations. She concluded by expressing her appreciation for the serious and important work of the Committee of Experts and looked forward to continuing dialogue with them.

24. The Committee recalled that the ILO supervisory mechanism of which both Committees were part, was the oldest in the United Nations (UN) system and solidly anchored on freedom of association as a fundamental condition for its functioning. On the eve of the Centenary, the two Committees should continue to mutually respect each other's role and jurisdiction while engaging closely. Recognizing the independent nature of the Committee of Experts as its *raison d'être* helped the fruitful dialogue in which the two bodies had been engaging. Any evolution of the supervisory system must be based on the system's strengths. International labour standards constituted not only the main source of international labour law but also the foundation of national labour law in many countries throughout the world. International labour standards had managed to exert this influence and maintain their relevance over the years largely

thanks to the supervisory body comments linking ratified Conventions to constantly changing national circumstances, and through the integration of these recommendations and comments in numerous decisions reached by national judicial bodies. The Committee of Experts' comments would not have produced the same results if they were not enhanced by the political impact of discussion at the Conference Committee in a tripartite context. An important condition for maintaining the impact of the Experts' comments was the coherence between the two bodies, based on their complementary mandates and the cooperation they had built over time. The meeting with the two Vice-Chairpersons of the Conference Committee had become over time a privileged moment of dialogue and cooperation with the invaluable support of the secretariat. The latter did not detract in any way from each body's autonomy over its working methods and the personal commitment that the members of each supervisory body shared for international labour standards. The contribution of the Office was essential to maintaining a permanent collaboration between the two Committees as well as the other ILO supervisory bodies. This triumvirate between the two Committees and the Office should be developed even further within the framework of each body's respective mandates.

25. The Standards Initiative, aimed at a useful and healthy tripartite discussion on the future of the supervisory system, had encouraged both supervisory bodies to further improve the way in which they discharged their responsibilities in order to increase their impact. The Committee of Experts sought over the years to deliver a rigorous, consistent and impartial assessment of compliance with ratified Conventions, constantly introducing gradual improvements to produce more user-friendly, precise and concise comments. This was necessary not only in order to give clear guidance to governments but also to facilitate follow-up action and technical assistance by the Office. The need to be consistent over time meant that the Committee's wording should be carefully refined and simplified in an ongoing delicate endeavour. The subcommittee on the working methods of the Committee of Experts had been established since 2001 and had held its 18th meeting this year. The subcommittee had introduced many improvements over the years and this year again, it had taken important decisions reproduced in paragraphs 8–11 of this General Report, paying due attention to the requests made by the Governing Body in the context of the Standards Initiative.

26. Conscious of the synergies between the two bodies, the Committee of Experts had been referring to the conclusions reached by the Conference Committee in its comments. It had also introduced urgent appeals and planned to extend this practice even further to address serious lack of cooperation in reporting in synergy with the Conference Committee. The Committee of Experts placed special emphasis on the Conference Committee's conclusions, carefully reviewing their follow-up in its comments, and was pleased to note the dynamic discussion that had occurred during the last session of the Conference Committee based on the consolidated comments it had made on Haiti, Republic of Moldova and Ukraine.

27. The Committee attached great importance to the clarity of the criteria for making a distinction between observations and direct requests, in order to ensure the visibility, transparency and coherence of the Committee's work and legal certainty over time in light of the Committee's evolving membership and practices. This distinction was the outcome of a long gestation initiated in 1957. The criteria involved careful consideration of both timing and substance. Even though the criteria might appear clear at first sight, their application sometimes called for a delicate balancing. The Committee needed some room for reasoned discretion in this area, with a view to maintaining dialogue with governments and facilitating effective progress in the application of ratified Conventions. This having been said, the Committee was willing to give due consideration to the suggestions made by the two Vice-Chairpersons in future discussions on this issue.

28. Finally, the Committee appreciated the opportunity to exchange views with regard to Convention No. 87 and the right to strike and also the use made in the Committee's comments of conclusions and recommendations reached by the Committee on Freedom of Association. The latter issue had been raised by the Employer Vice-Chairperson at the last session of the Conference Committee in May–June 2018. The position of the Committee of Experts on the right to strike had been set forth in numerous exchanges with the Vice-Chairpersons since 2013. The Experts appreciated that these parties had different views on the issue. At the same time, the two Committees were in agreement on the recurrent themes raised in the Committee's comments in relation to freedom of association. These concerned in the first place the right to be free from violence and threats to civil liberties; second, the exclusion of certain categories of workers from the right to organize under the Convention; and third, the autonomy of workers' and employers' organizations explicitly protected under the Convention in Articles 2, 3, 4, 5 and 6. One aspect of this autonomy, the right of workers' and employers' organizations to organize their activities and formulate their programmes, involved taking industrial action in appropriate circumstances. The right to strike was not the main focus of examination by the Committee though it was an important one. Based on the constitutional obligation to report on the way ratified Conventions were applied in law and practice, the Committee's comments were intended to guide the actions of national authorities with respect to this right. The Committee's guidance also relied on reports from governments and comments from the social partners, reflecting application of the right under varied national circumstances. The effort to understand the diversity and complexity of country settings was made when the Experts examined the application of all Conventions and not just Convention No. 87, and was certainly something the Experts took very seriously when examining issues around the right to strike.

29. Regarding the comments from the Employer Vice-Chairperson on references made to CFA cases, the Committee fully recognized the different mandates and working methods of the two Committees and did not routinely refer to CFA conclusions and recommendations. When the Committee did so, it was basically for two reasons: either because the CFA had referred the legislative aspects of a case to the Committee of Experts, or for other intersectional

reasons, for example when the CFA had addressed similar issues in the recent past as was sometimes indicated by the government or the social partners themselves. The CFA's assessment of the practical application of Conventions on freedom of association sometimes informed the Committee of Experts as to how the Convention was applied, especially as the CFA based its examination on complaints. The Committee's approach reinforced the integration of the supervisory mechanisms, while doing so through a suitably tailored set of circumstances as part of the independence and discretion that the Committee was expected to exercise.

30. Concerning considerations of diversity in placing double footnotes, the most important criterion for the Experts was the urgency of the issue but they were conscious of the need to maintain all types of balance. The Experts were aware of the challenges faced by the two Vice-Chairpersons in maintaining a balance among cases discussed at the Conference Committee in particular in relation to regional diversity. The concerns expressed by both Vice-Chairpersons were taken very seriously by the Experts and would be kept in mind moving forward.

31. Information on the follow-up given by the Committee to the conclusions of the Conference Committee at its 107th Session (2018) is provided in paragraph 73 of this General Report.³

Mandate

32. The Committee of Experts on the Application of Conventions and Recommendations is an independent body established by the International Labour Conference and its members are appointed by the ILO Governing Body. It is composed of legal experts charged with examining the application of ILO Conventions and Recommendations by ILO member States. The Committee of Experts undertakes an impartial and technical analysis of how the Conventions are applied in law and practice by member States, while cognizant of different national realities and legal systems. In doing so, it must determine the legal scope, content and meaning of the provisions of the Conventions. Its opinions and recommendations are non-binding, being intended to guide the actions of national authorities. They derive their persuasive value from the legitimacy and rationality of the Committee's work based on its impartiality, experience and expertise. The Committee's technical role and moral authority is well recognized, particularly as it has been engaged in its supervisory task for more than 90 years, by virtue of its composition, independence and its working methods built on continuing dialogue with governments taking into account information provided by employers' and workers' organizations. This has been reflected in the incorporation of the Committee's opinions and recommendations in national legislation, international instruments and court decisions.

Looking into the future on the occasion of the ILO's Centenary

33. A century of any institution's existence invites both celebration and reflection. As the ILO embarks on its second century, the Committee of Experts wishes to offer some reflections on its own past and possible future role. The context in 2019 is different from 1919, but no less challenging today: a persistent disjunction between economic and social policies, an erosion of multilateralism, persistence of poverty and growing inequality within and between member States, a mixed picture when it comes to human rights, and the fragility posed by climate change and conflict. Moreover, the speed at which the combined forces of technology, demographic and climate change, globalization and migration are transforming our world of work presents additional challenges to the national and global institutions embodying the social contract of our time and the peace and security supported by the social contract.

34. Prior to any reflection, the Committee has to be mindful of the mandate originally bestowed on it by the International Labour Conference in 1926: to examine the reports of governments required under article 22 of the ILO Constitution and report on its findings to the Conference.

35. In 1926, the Organization operated on a vision of harmonizing national labour legislation among 56 member States at relatively comparable levels of development. Its initial purview was to supervise the application of some 20 Conventions. In 1969, that substantive remit had expanded to 121 Members and over 250 Conventions. Meanwhile, decolonization in particular had not only increased the Organization's membership but had started to alter the couching of international labour standards and their supervision. The introduction of flexibility clauses in Conventions and, more generally, of standards less geared towards predominantly legislative compliance and more towards the sound orientation of policies and institutions needed to realize social justice in newly independent States increasingly inspired the Committee to invite member States to rely on the gradually expanding technical cooperation activities of the Organization.

36. The Committee modified aspects of its role and working methods to adapt to the times. In 1946, the ILO Constitution was amended to include an obligation in member States to supply at the request of the Governing Body reports on Conventions they have not ratified. The General Surveys to which these reports give rise allow the Committee to examine the difficulties reported by governments in applying standards; to clarify the scope of these standards; and occasionally indicate means of overcoming obstacles to their application. Today, the General Surveys, besides providing

³ Moreover, updated information on the follow-up given by the secretariat to the conclusions of the Conference Committee can be found as of 1 April 2019, on the official website of the Conference Committee.

guidance to national legislation, they play a key role in informing the Conference recurrent discussions which periodically review the effectiveness of the Organization's various means of action, including standards-related action in responding to the diverse realities and needs of member States with respect to each of the strategic objectives of the Decent Work Agenda. Increasingly, they may be expected to inform the work of the Standards Review Mechanism Tripartite Working Group, mandated to ensure that the ILO has a clear, robust and up-to-date body of international labour standards that respond to the changing patterns of the world of work, for the purpose of the protection of workers and taking into account the needs of sustainable enterprises.

37. In 1957, the Committee started to address a number of comments directly to governments instead of including them in its report. This distinction between observations and direct requests permitted the Committee to simplify the procedure in case of requests for supplementary information of comments on minor points and reduce the size of its report but in the process enabled the Committee to gradually clarify issues of secondary importance with governments at earlier stages of their institutional development. Again, in 1968, the Committee introduced a measure of quiet diplomacy, i.e. "direct contacts" missions aimed at developing dialogue with governments, workers' and employers' organizations, in order to overcome difficulties encountered in the application of Conventions by developing a full appreciation of the questions raised.

38. In 1926, the International Labour Conference had the foresight of complementing the original method of monitoring mutual compliance with treaty obligations based on dialogue with member States and social partners alike with an independent and objective supervisory element thus providing for coherent supervision and an enhanced rule of law.

39. The interplay between independent and tripartite supervision has not always been entirely free of controversy. Particularly during the first post-war decades, the Committee has had to recall its function as an honest broker in providing a consistent reading of international law shaped by the exigencies of social justice and the fine balancing of perspectives inherent in tripartism. Throughout, the Committee has stressed that its regular supervisory function is to determine whether the requirements of a ratified Convention are being met, whatever the economic and social conditions existing in a country. Subject only to any derogations which are expressly permitted by the Convention itself, these requirements remain constant and uniform for all countries. Based on its wisdom of the widest variety of legal systems by virtue of its universal membership, the Committee has been able to balance its adherence to key principles of objectivity, impartiality, independence and expertise in both international law and labour law with a deep understanding of the time and space needed to meet individual development needs with the broad participation of stakeholders.

40. The Committee considers as essential the Organization's approach to normative or rule-based multilateralism particularly the global coverage offered by its labour-related instruments. The progression of the organization has also witnessed, in addition to the thousands of cases of progress noted by the Committee and the Conference Committee on the Application of Standards over the last 91 years, 13 occasions over the last century where the Governing Body has felt the need to establish a commission of inquiry and a single occasion where it has gone further, initiating the action to secure compliance provided for in article 33 of the Constitution. The Committee is honoured to have contributed, by focusing its work on unveiling non-compliance, to a supervisory system that promotes dialogue and compliance with a sustained need for more effective implementation of labour rights worldwide.

41. The Committee feels that the key features of its independence have served and will continue to serve its role well. That role can only be played in partnership with the supervisory body to which, through the Governing Body, it reports its objective findings, i.e. the Conference Committee on the Application of Standards. Two practices have enhanced the mutual understanding between the independent Committee of Experts on the one hand and the tripartite Conference Committee on the other. The Vice-Chairpersons of the Conference Committee are invited to a special session of the Committee each year, providing them a platform to express their views, proposals and concerns. Conversely, carrying out a Governing Body decision, the Director-General invites the Chairperson of the Committee of Experts to attend sessions of the Conference Committee on the Application of Standards. This provides the Committee with insights into how the tripartite Conference Committee addresses its general report, the cases it has selected for discussion from the Committee of Experts' report and its General Survey. This practice has been useful and has potential to further reinforce the respective roles of both bodies. Even if, on occasion, this has led to a different understanding of the legal instruments examined, it is only because the Committee's work is underpinned by the basic principles of public international law and the unique characteristics of the Organization which creates such law to govern the world of work. Under Articles 31 and 32 of the Vienna Convention on the Law of Treaties, resort to preparatory works of an instrument occurs to confirm a good faith interpretation in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose or to determine the meaning when the interpretation: (a) leaves the meaning ambiguous or obscure; or (b) leads to a result which is manifestly absurd or unreasonable. In the ILO, reference is made simultaneously to the text of the international labour standard and to its preparatory work. This is respectful of the input made by tripartite constituents during the framing of an instrument and of the unique tripartite structure of the ILO that gives an equal voice to workers, employers and governments to ensure that the views of the social partners are closely reflected in labour standards and in shaping policies and programmes.

42. The first decade of the Organization's new century will be marked by a global development agenda with a clear ambition to transform poverty in all its forms into prosperity for all human beings; protect the planet from degradation;

and foster peaceful, just and inclusive societies bolstered by a spirit of strengthened global solidarity. The Decent Work Agenda, and the international labour standards benchmarking it, suffuse the 17 Sustainable Development Goals (SDGs) adopted by the UN General Assembly. The Agenda reflects an understanding that “decent work is both a means and an end to sustainable development.”⁴ The 2030 Agenda for Sustainable Development “commits to fostering a dynamic business sector and protecting labour rights and environmental and health standards in accordance with international instruments, including ILO standards and the UN Guiding Principles on Business and Human Rights”.⁵ It has “a strong normative character and sets a truly human rights-centred path for sustainable development.”⁶ The 169 targets and 232 indicators in the 2030 Development Agenda are the signposts along that path.

43. The Organization is the custodian of no fewer than 17 of these statistical indicators charting progress towards 2030. Indicator 8.8.2 will track the protection of labour rights and measure the “level of national compliance of labour rights (freedom of association and collective bargaining) based on International Labour Organization (ILO) textual sources and national legislation, by sex and migrant status”.⁷ The Committee notes with interest that the methodology recently adopted by the International Conference of Labour Statisticians will rely so prominently on its supervisory work.⁸

44. Other targets in the 2030 Agenda for Sustainable Development also have the potential to simultaneously benefit from and raise the profile of the Committee’s supervisory work in the ILO’s second century. SDG 8.7 targets the end of forced labour and child labour and so is aligned with some of the most widely – and we may hope soon universally – ratified fundamental Conventions. The same holds true for standards related to the promotion of full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and of equal pay for work of equal value – targeted in SDG 8.5. SDG 10 envisages “an assault on discrimination and implementation of reinforced pro-equality measures, especially fiscal, wage and social protection policies”.⁹ The relevance of the Committee’s comments in relation to the application of standards on equal opportunity and treatment and employment policy is evident. SDG 17 addresses issues which include enhanced global macroeconomic stability and policy coherence, investment promotion and trade. The logic of the 1998 and 2008 Declarations implies that these should not be seen in isolation from fundamental labour standards, and the Committee reports could inform the work of the High-level Political Forum on Sustainable Development annual review.

45. Several SDG indicators refer to legislation and policies that fall within the domain of many ratified ILO Conventions. For example, indicator 5.5.1 under Goal 5 (“Achieve gender equality and empower all women and girls”) tests “whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex”. Committee reports form an obvious source for such information. SDG indicator 1.3.1 reflects the proportion of persons effectively covered by a social protection system, including social protection floors, as well as the main components of social protection: child and maternity benefits, support for persons without a job, persons with disabilities, victims of work injuries and older persons. Such measurements of effective social protection coverage are meant to reflect how in reality legal provisions grounded in instruments such as the Social Security (Minimum Standards) Convention, 1952 (No. 102), or the Social Protection Floors Recommendation, 2012 (No. 202), are implemented in line with the comments of the supervisory bodies.

46. The Committee notes with interest the ongoing efforts to reposition the UN system around the SDGs. It welcomes the emphasis laid on enhancing the capacities of the system on integrated policy advice, support to the implementation of norms and standards, data collection and analysis. It fully subscribes to the need for a strong understanding of relevant UN normative frameworks, the ability to translate these norms and standards into system-wide analysis planning and programming towards the SDGs. It feels reassured by the view, echoed in the most recent UN Quadrennial Comprehensive Policy Review that, in line with the pledge of the 2030 Agenda to “leave no one behind”, international norms and standards constitute a core foundation of the UN’s work at country level and its unique role, commitment and driving force for an integrated, people-centred approach that incorporates human rights and gender equality as critical components. And it would concur with the UN Secretary-General that the United Nations “must be firm in upholding the universal values and norms agreed by our member States, but flexible in adapting its presence, support and skillset to each country”. The Committee would trust that in pursuing such adaptation, the pragmatic values of tripartism will retain pride of place. It would hope that Decent Work Country Programmes can continue to be the platform for promoting the Organization’s normative work among the panoply of human rights pronouncements, and that a strengthened the United Nations Development Assistance Framework (UNDAF) framework will make the fullest use of social partnership.

⁴ Report of the Director-General to the International Labour Conference: *The End to Poverty Initiative: The ILO and the 2030 Agenda*, Report I(B), 105th Session, Geneva, 2016, para. 10.

⁵ *ibid.*, para. 52.

⁶ *ibid.*, para. 26.

⁷ ILO: *Decent Work and the Sustainable Development Goals: A Guidebook on SDG Labour Market Indicators*, 2018.

⁸ 20th International Conference of Labour Statisticians (ICLS), Geneva, 10–19 October 2018, *Resolution concerning the methodology of the SDG indicator 8.8.2 on labour rights* (ICLS/20/2018/Resolution II).

⁹ *ibid.*, ICLS.

47. At the same time, it would appear to the Committee that such reassurances of the contemporary relevance of international labour law and its supervision do not warrant complacency. In this context, the Committee remains vigilant of the challenges to the effective supervision of international labour standards ahead. Some of these relate to the rapid transformations in the world of work itself and the commensurate attention international supervision will have to pay to the timely valuation of delicate problems. Therefore, the Committee looks forward to examining in the coming year, the final report of the Global Commission on the Future of Work as a basis for further reflection of how the Committee will continue to ensure an objective and impartial supervision of ratified international labour standards.

48. The Committee takes the opportunity to recall that 2019 also marks the anniversary of various Conventions that have lost none of their relevance for the social justice challenges ahead. The Right to Organise and Collective Bargaining Convention, 1949 (No. 98), gives expression to a fundamental principle and right at work and collective bargaining remains a pillar of social peace and the ability of workers and employers to negotiate decent conditions of work in freedom and dignity. The Protection of Wages Convention, 1949 (No. 95), set standards to ensure that agreed wages are also effectively paid. The Migration for Employment Convention (Revised), 1949 (No. 97), established the principle of equal treatment between nationals and migrant workers which continues to shape sustained and sustainable economic growth trajectories and drive financing for development. The year 2019 will mark the 50th anniversary of the Labour Inspection (Agriculture) Convention, 1969 (No. 129), extending the reach of a key governance instrument for the protection of rural workers. Another key Convention ensuring sustainable, rural livelihoods will reach 30 years of age – the Indigenous and Tribal Peoples Convention, 1989 (No. 169). The Committee hopes that Member states will take the occasion of the Centenary to give fresh consideration to ratification and application of these standards as they prepare or implement their sustainable development plans.

II. Compliance with standards-related obligations

A. Reports on ratified Conventions (articles 22 and 35 of the Constitution)

49. The Committee's principal task consists of the examination of the reports supplied by governments on Conventions that have been ratified by member States (article 22 of the Constitution) and that have been declared applicable to non-metropolitan territories (article 35 of the Constitution).

Reporting arrangements

50. In accordance with the decision taken by the Governing Body at its 258th Session (November 1993), the reports due on ratified Conventions should be sent to the Office **between 1 June and 1 September** of each year.

51. The Committee recalls that detailed reports should be sent in the case of first reports (a first report is due after ratification) or when specifically requested by the Committee of Experts or the Conference Committee. Simplified reports are then requested on a regular basis.¹⁰ The Committee also recalls that, at its 306th Session (November 2009), the Governing Body decided to increase from two to three years the regular reporting cycle for the fundamental and governance Conventions. At its 334th Session (November 2018) the Governing Body decided to increase the reporting cycle at six years for all other Conventions.

52. In addition, reports may be requested by the Committee outside of the regular reporting cycle.¹¹ Reports may also be expressly requested outside of the regular reporting cycle by the Conference Committee or the Governing Body. At each session, the Committee also has to examine reports requested in cases where a government had failed to send a report due for the previous period or to reply to the Committee's previous comments.

Compliance with reporting obligations

53. This year a total of 1,790 reports (1,683 reports under article 22 of the Constitution and 107 reports under article 35 of the Constitution) were requested from governments on the application of Conventions ratified by member States, compared to 2,242 reports last year.

54. The Committee observes with **concern** that, the proportion of reports received by 1 September 2018 remains low (35.4 per cent, compared with 38.2 per cent at its previous session). It recalls that the fact that a significant number of reports are received after 1 September disturbs the sound operation of the regular supervisory procedure. ***The Committee is therefore bound to reiterate its request that member States make a particular effort to ensure that their reports are submitted in time next year and that they contain all the information requested so as to allow a complete examination by the Committee.***

¹⁰ In 1993, a distinction was made between detailed and simplified reports. As explained in the report forms, in the case of simplified reports, information need normally be given only on the following points: (a) any new legislative or other measures affecting the application of the Convention; (b) replies to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations; and (c) replies to comments by the supervisory bodies. At its 334th Session, the Governing Body adopted a new report form to facilitate reporting by governments when they are expected to provide simplified reports. Document GB.334/INS/5.

¹¹ See para. 75 et seq. of the General Report.

55. At the end of the present session of the Committee, 1,122 reports had been received by the Office. This figure corresponds to 62.7 per cent of the reports requested ¹² and is lower than the percentage of reports received last year, when the Office received a total of 1,519 reports, representing 67.8 per cent. The Committee notes in particular that 52 of the 89 first reports due on the application of ratified Conventions were received by the time the Committee's session ended (last year, 61 of the 95 first reports due had been received).

56. When examining the failure by member States to respect their reporting obligations, the Committee adopts "general" comments (contained at the beginning of Part II (section I) of this report). It makes general observations when none of the reports due have been sent for two or more years; or when a first report has not been sent for two or more years. It makes a general direct request when, in the current year, a country has not sent the reports due, or the majority of reports due; or it has not sent a first report due. This year, following the introduction of a new practice of urgent appeals, the Committee launched such appeals for eight countries which had not sent first reports for at least three years (see paragraph 59 below).

57. None of the reports due have been sent for the past two or more years from the following 14 countries: **Brunei Darussalam, Chad, Dominica, Equatorial Guinea, Gambia, Grenada, Guinea-Bissau, Malaysia – Sabah, Saint Lucia, Sierra Leone, Somalia, South Sudan, Timor-Leste and Trinidad and Tobago.**

58. Eleven countries have failed to supply a first report for two or more years:

State	Conventions Nos
Chad	– Since 2017: Convention Nos 102 and 122
Congo	– Since 2015: Convention No. 185 and – Since 2016: MLC, 2006
Equatorial Guinea	– Since 1998: Conventions Nos 68 and 92
Gabon	– Since 2016: MLC, 2006
Kiribati	– Since 2015: Convention No. 185
Republic of Maldives	– Since 2015: Convention No. 100 and – Since 2016: Conventions Nos 185 and MLC, 2006
Netherlands – Curaçao	– Since 2017: MLC, 2006
Nicaragua	– Since 2015: MLC, 2006
Romania	– Since 2017: MLC, 2006
Saint Vincent and the Grenadines	– Since 2014: MLC, 2006
Somalia	– Since 2016: Conventions Nos 87, 98 and 182

59. *The Committee urges the Governments concerned to make every effort to supply the reports requested on ratified Conventions, and to make a special effort to supply the first reports due. In particular, the Committee draws the attention of the following Governments to the fact that if a report is not received in time for examination by the Committee at its next session, the latter will proceed to examine the application of the Convention in the countries concerned on the basis of public information at its disposal: Congo, Equatorial Guinea, Gabon, Kiribati, Republic of Maldives, Nicaragua, Saint Vincent and the Grenadines, and Somalia.* The Committee, like the Conference Committee, emphasizes the particular importance of first reports, which provide the basis on which the Committee makes its initial assessment of the application of the specific Conventions concerned. The Committee is aware that, where no reports have been sent for some time, it is likely that administrative or other problems are at the origin of the difficulties encountered by governments in fulfilling their constitutional obligations. *In such cases, it is important for governments to request assistance from the Office and for such assistance to be provided rapidly.* ¹³

60. The following countries have failed to indicate for the past three years, the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, copies of the reports and

¹² Appendix I to this report provides an indication by country of whether the reports requested (under articles 22 and 35 of the Constitution) have been registered or not by the end of the meeting of the Committee. Appendix II shows, for the reports requested under article 22 of the Constitution, for each year since 1932, the number and percentage of reports received by the prescribed date, by the date of the meeting of the Committee of Experts and by the date of the session of the International Labour Conference.

¹³ In certain exceptional cases, the absence of reports is a result of more general difficulties related to the national situation, which prevents the provision of any technical assistance by the Office.

information supplied to the Office under articles 19 and 22 of the Constitution have been communicated: **Fiji and Rwanda**.¹⁴

61. The Committee recalls that, in accordance with the tripartite nature of the ILO, compliance with this constitutional obligation is intended to enable representative organizations of employers and workers to participate fully in supervision of the application of international labour standards.¹⁵ If a government fails to comply with this obligation, these organizations are denied their opportunity to comment and an essential element of tripartism is lost. ***The Committee calls on the member States concerned to discharge their obligation under article 23, paragraph 2, of the Constitution.***

Replies to the comments of the Committee

62. Governments are requested to reply in their reports to the observations and direct requests made by the Committee, and the majority of governments have provided the replies requested. In some cases, the reports received did not contain replies to the Committee's requests or were not accompanied by copies of the relevant legislation or other documentation necessary for their full examination. In such cases, the Office, as requested by the Committee, has written to the governments concerned asking them to supply the requested information or material, where this material was not otherwise available.

63. This year, no information has been received as regards all or most of the observations and direct requests of the Committee to which a reply was requested for the following countries: **Afghanistan, Antigua and Barbuda, Barbados, Belize, Brunei Darussalam, Chad, Congo, Djibouti, Dominica, Equatorial Guinea, France (French Polynesia), Gambia, Ghana, Grenada, Guinea-Bissau, Guyana, Haiti, Hungary, Jamaica, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Malawi, Malaysia-Sabah, Republic of Maldives, Malta, Mauritania, Republic of Moldova, Netherlands (Aruba), Papua New Guinea, Romania, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sao Tome and Principe, Sierra Leone, Singapore, Somalia, South Africa, South Sudan, Tajikistan, Timor-Leste, Trinidad and Tobago and Uganda.**

64. The Committee notes with *concern* that the number of comments to which replies have not been received remains significantly high. The Committee underlines that the value attached by ILO constituents to the dialogue with the supervisory bodies on the application of ratified Conventions is considerably diminished by the failure of governments to fulfil their obligations in this respect. The Committee also draws the attention of governments to the revised criteria for the examination of repetitions where governments have failed to reply to the Committee's comments for three or more years. ***The Committee urges the countries concerned to provide all the information requested and recalls that they may avail themselves of the technical assistance of the Office, where necessary.***

Follow-up to cases of serious failure by member States to fulfil reporting obligations mentioned in the report of the Committee on the Application of Standards

65. As the functioning of the supervisory system is based primarily on the information provided by governments in their reports, both the Committee and the Conference Committee considered that failure by member States to fulfil their obligations in this respect has to be given the same level of attention as non-compliance relating to the application of ratified Conventions. The two Committees have therefore decided to strengthen, with the assistance of the Office, the follow-up given to these cases of failure.

66. The Committee was informed that, pursuant to the discussions of the Conference Committee in May–June 2018, the Office had sent specific letters to the member States mentioned in the relevant paragraphs of the report of the Conference Committee concerning these cases of failure.¹⁶ The Committee welcomes the fact that, since the end of the session of the Conference, 13 of the member States concerned have fulfilled at least part of their reporting obligations.¹⁷

67. The Committee hopes that the Office will maintain the sustained technical assistance that it has been providing to member States in this respect. Finally, the Committee welcomes the fruitful collaboration that it maintains with the Conference Committee on this matter of mutual interest, which is essential to the proper discharge of their respective tasks. The Committee draws attention to its decision to draw certain cases of serious reporting failure to the attention of the Conference Committee so that an urgent appeal can be launched to the governments concerned and they may be advised that, in the absence of a report, the Committee would examine the substance of the matter on the basis of information at its disposal.

¹⁴ See the general observation contained in Part II.I of this year's report.

¹⁵ See para. 94 of the General Report.

¹⁶ See report of the Committee on the Application of Standards, International Labour Conference, 107th Session, Geneva, 2018, paras 157–164.

¹⁷ **Belize, Plurinational State of Bolivia, Botswana, Comoros, Cook Islands, Guyana, Haiti, Malaysia, Malaysia (Malaysia Peninsular and Sarawak), Mozambique, Serbia, Solomon Islands, Vanuatu and Yemen.**

B. Examination by the Committee of Experts of reports on ratified Conventions

68. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, in accordance with its practice, the Committee assigned to each of its members the initial responsibility for a group of Conventions. The members submit their preliminary conclusions on the instruments for which they are responsible to the Committee in plenary sitting for discussion and approval. Decisions on comments are adopted by consensus.

69. The Committee wishes to inform member States that it examined all reports that were brought to its attention. In view of the secretariat's heavy workload, which is largely due to the high number of reports submitted after the due date of 1 September, a number of reports could not be brought to the Committee's attention and will be examined at its next session.

Observations and direct requests

70. First of all, the Committee considers that it is worthy of note that in 122 cases it has found, following examination of the corresponding reports, that no further comment was called for regarding the manner in which a ratified Convention had been implemented. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form of either "observations", which are reproduced in the report of the Committee, or "direct requests", which are not published in the Committee's report, but are communicated directly to the governments concerned and are available online.¹⁸ Observations are generally used in more serious or long standing cases of failure to fulfil obligations. They point to important discrepancies between the obligations under a Convention and the related law and/or practice of member States. They may address the absence of measures to give effect to a Convention or to take appropriate action following the Committee's requests. They may also highlight progress, as appropriate. Direct requests allow the Committee to be engaged in a continuing dialogue with governments often when the questions raised are primarily of a technical nature. They can also be used for the clarification of certain points when the information available does not enable a full appreciation of the extent to which the obligations are fulfilled. Direct requests are also used to examine the first reports supplied by governments on the application of Conventions.

71. The Committee's observations appear in Part II of this report, together with, for each subject, a list of direct requests. An index of all observations and direct requests, classified by country, is provided in Appendix VII to the report.

72. In addition, the Committee made two general observations on the occasion of the anniversaries of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

Follow-up to the conclusions of the Committee on the Application of Standards

73. The Committee examines the follow-up to the conclusions of the Committee on the Application of Standards. The corresponding information forms an integral part of the Committee's dialogue with the governments concerned. This year, the Committee has examined the follow-up to the conclusions adopted by the Committee on the Application of Standards during the last session of the International Labour Conference (107th Session, May–June 2018) in the following cases.

¹⁸ Observations and direct requests are accessible through the NORMLEX database, on the ILO website (www.ilo.org/normes).

List of cases in which the Committee has examined the follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)		
State	Conventions Nos	Page Nos
Algeria	87	49
Bahrain	111	368
Belarus	29	194
Plurinational State of Bolivia	131 and 138	549 and 251
Botswana	87	55
Brazil	98	58
Cambodia	105	199
El Salvador	144	461
Eritrea	29	207
Georgia	100	393
Greece	98	80
Haiti	1/14/30/106	559
Honduras	87	88
Japan	87	93
Libya	122	523
Malaysia-Peninsular/Sarawak	19	578
Mexico	87	103
Republic of Moldova	81/129	483
Myanmar	87	107
Nigeria	98	110
Samoa	182	347
Serbia	144	467
Ukraine	81/129	503

Follow-up of representations under article 24 of the Constitution and complaints under article 26 of the Constitution

74. In accordance with the established practice, the Committee also examines the measures taken by governments pursuant to the recommendations of tripartite committees (set up to examine representations under article 24 of the Constitution) and commissions of inquiry (set up to examine complaints under article 26 of the Constitution). The corresponding information forms an integral part of the Committee's dialogue with the governments concerned. The Committee considers it useful to indicate more clearly the cases in which it follows up on the effect given to the recommendations made under these constitutional supervisory procedures, as indicated in the following tables.

List of cases in which the Committee has examined the measures taken by governments to give effect to the recommendations of commissions of inquiry (complaints under article 26)	
State	Conventions Nos
Zimbabwe	87 and 98

List of cases in which the Committee has examined the measures taken by governments to give effect to the recommendations of tripartite committees (representations under article 24)	
State	Conventions Nos
Portugal	137
Qatar	111
Ukraine	95

Special notes

75. As in the past, the Committee has indicated by special notes (traditionally known as “footnotes”) at the end of its comments the cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has deemed appropriate to ask the government to supply a report earlier than would otherwise have been the case and, in some instances, to supply full particulars to the Conference at its next session in June 2019.

76. In order to identify cases for which it inserts special notes, the Committee uses the basic criteria described below, while taking into account the following general considerations. First, the criteria are indicative. In exercising its discretion in the application of the criteria, the Committee may also have regard to the specific circumstances of the country and the length of the reporting cycle. Second, the criteria are applicable to cases in which an earlier report is requested, often referred to as a “single footnote”, as well as to cases in which the government is requested to provide detailed information to the Conference, often referred to as a “double footnote”. The difference between these two categories is one of degree. Third, a serious case otherwise justifying a special note to provide full particulars to the Conference (double footnote) might only be given a special note to provide an early report (single footnote) when there has been a recent discussion of the case in the Conference Committee. Finally, the Committee wishes to point out that it exercises restraint in its recourse to “double footnotes” in deference to the Conference Committee’s decisions as to the cases it wishes to discuss.

77. The criteria to which the Committee has regard are the following:

- the seriousness of the problem; in this respect, the Committee emphasizes that an important consideration is the necessity to view the problem in the context of a particular Convention and to take into account matters involving fundamental rights, workers’ health, safety and well-being, as well as any adverse impact, including at the international level, on workers and other categories of protected persons;
- the persistence of the problem;
- the urgency of the situation; the evaluation of such urgency is necessarily case specific, according to standard human rights criteria, such as life threatening situations or problems where irreversible harm is foreseeable; and
- the quality and scope of the government’s response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

78. In addition, the Committee wishes to emphasize that its decision not to double footnote a case which it has previously drawn to the attention of the Conference Committee in no way implies that it has considered progress to have been made therein.

79. At its 76th Session (November–December 2005), the Committee decided that the identification of cases in respect of which a government is requested to provide detailed information to the Conference would be a two-stage process: first, the expert initially responsible for a particular group of Conventions recommends to the Committee the insertion of special notes; second, in light of all the recommendations made, the Committee will, after discussion, take a final, collegial decision once it has reviewed the application of all the Conventions.

80. This year, the Committee has requested governments to supply full particulars to the Conference at its next session in 2019 in the following cases:

List of the cases in which the Committee has requested governments to supply full particulars to the Conference at its next session in June 2019	
State	Conventions Nos
Ethiopia	138
Iraq	182
Libya	111

List of the cases in which the Committee has requested governments to supply full particulars to the Conference at its next session in June 2019	
State	Conventions Nos
Myanmar	29
Nicaragua	117
Turkey	87

81. The Committee has requested governments to furnish detailed reports outside of the reporting cycle in the following cases:

List of the cases in which the Committee has requested detailed reports outside of the reporting cycle	
State	Conventions No
Cuba	110

82. In addition, the Committee has requested a full reply to its comments outside of the reporting cycle in the following cases:

List of the cases in which the Committee has requested full reply to its comments outside of the reporting cycle	
State	Conventions Nos
Argentina	MLC, 2006
Armenia	17/18
Bangladesh	81 and MLC, 2006
Plurinational State of Bolivia	131, 136/162 and 167
Burundi	26
Cabo Verde	MLC, 2006
China	155/167, 170 and MLC, 2006
Ghana	MLC, 2006
Guatemala	87
Haiti	1/14/30/106
Honduras	87 and MLC, 2006
India	81 and MLC, 2006
Islamic Republic of Iran	MLC, 2006
Ireland	MLC, 2006
Japan	87
Kazakhstan	87
Kenya	17 and MLC, 2006
Madagascar	159
Malaysia-Peninsular Malaysia/Sarawak	19
Republic of Moldova	81/129
Mongolia	MLC, 2006
Montenegro	MLC, 2006

List of the cases in which the Committee has requested full reply to its comments outside of the reporting cycle	
State	Conventions Nos
New Zealand	MLC, 2006
Nigeria	MLC, 2006
Philippines	87
Senegal	87
Sri Lanka	98
Turkey	98
United Kingdom-Bermuda	MLC, 2006
Zimbabwe	87 and 98

Cases of progress

83. Following its examination of the reports supplied by governments, and in accordance with its standard practice, the Committee refers in its comments to cases in which it expresses its *satisfaction* or *interest* at the progress achieved in the application of the respective Conventions.

84. At its 80th and 82nd Sessions (2009 and 2011), the Committee made the following clarifications on the general approach developed over the years for the identification of cases of progress:

- (1) The expression by the Committee of interest or satisfaction does not mean that it considers that the country in question is in general conformity with the Convention, and in the same comment **the Committee may express its satisfaction or interest at a specific issue while also expressing regret concerning other important matters** which, in its view, have not been addressed in a satisfactory manner.
- (2) The Committee wishes to emphasize that **an indication of progress is limited to a specific issue related to the application of the Convention and the nature of the measures adopted by the government concerned.**
- (3) The Committee exercises its discretion in noting progress, taking into account the particular nature of the Convention and the specific circumstances of the country.
- (4) The expression of progress can refer to different kinds of measures relating to national legislation, policy or practice.
- (5) If the satisfaction relates to the adoption of legislation, the Committee may also consider appropriate follow-up measures for its practical application.
- (6) In identifying cases of progress, the Committee takes into account both the information provided by governments in their reports and the comments of employers' and workers' organizations.

85. Since first identifying cases of satisfaction in its report in 1964,¹⁹ the Committee has continued to follow the same general criteria. The Committee expresses *satisfaction* in cases in which, **following comments it has made on a specific issue, governments have taken measures through either the adoption of new legislation, an amendment to the existing legislation or a significant change in the national policy or practice, thus achieving fuller compliance with their obligations under the respective Conventions.** In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. The reason for identifying cases of satisfaction is twofold:

- to place on record the Committee's appreciation of the positive action taken by governments in response to its comments; and
- to provide an example to other governments and social partners which have to address similar issues.

86. Details concerning these cases of progress are found in Part II of this report and cover **18** instances in which measures of this kind have been taken in **15** countries. The full list is as follows:

¹⁹ See para. 16 of the report of the Committee of Experts submitted to the 48th Session (1964) of the International Labour Conference.

List of the cases in which the Committee has been able to express its satisfaction at certain measures taken by the governments of the following countries	
State	Conventions Nos
Albania	138
Cabo Verde	182
Côte d'Ivoire	138
Democratic Republic of the Congo	111
Ecuador	138
El Salvador	182
Eswatini	87
Guinea	29
Iraq	100
Malaysia	182
Morocco	105 and 182
Mozambique	138 and 182
Niger	182
Poland	87 and 98
Viet Nam	29

87. Thus the total number of cases in which the Committee has been led to **express its satisfaction** at the progress achieved following its comments has risen to **3,077** since the Committee began listing them in its report.

88. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979.²⁰ In general, cases of *interest* cover **measures that are sufficiently advanced to justify the expectation that further progress would be achieved in the future and regarding which the Committee would want to continue its dialogue with the government and the social partners**. The Committee's practice has developed to such an extent that cases in which it expresses interest may encompass a variety of measures. The paramount consideration is that the measures contribute to the overall achievement of the objectives of a particular Convention. This may include:

- draft legislation that is before parliament, or other proposed legislative changes forwarded or available to the Committee;
- consultations within the government and with the social partners;
- new policies;
- the development and implementation of activities within the framework of a technical cooperation project or following technical assistance or advice from the Office;
- judicial decisions, according to the level of the court, the subject matter and the force of such decisions in a particular legal system, would normally be considered as cases of interest unless there is a compelling reason to note a particular judicial decision as a case of satisfaction; or
- the Committee may also note as cases of interest the progress made by a state, province or territory in the framework of a federal system.

89. Details concerning the cases in question are found either in Part II of this report or in the requests addressed directly to the governments concerned, and include **170** instances in which measures of this kind have been adopted in **80** countries. The full list is as follows:

²⁰ See para. 122 of the report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference.

List of the cases in which the Committee has been able to note with interest certain measures taken by the governments of the following countries	
State	Conventions Nos
Albania	95/173, 122 and 181
Angola	81
Argentina	29 and 156
Armenia	182
Australia	MLC, 2006
Bahamas	182
Bangladesh	81
Plurinational State of Bolivia	81/129 and 138
Botswana	182
Bulgaria	122
Cabo Verde	29
Canada	26
Chile	111, 122, 140 and 169
China	122 and 148/155/167
Côte d'Ivoire	29
Croatia	45/139/148/155/161/162 and 98
Democratic Republic of the Congo	87 and 111
Denmark	142
Ecuador	29, 122 and 182
Egypt	87
El Salvador	29 and 107
Estonia	122
Eswatini	87
Ethiopia	29 and 182
Fiji	87
Finland	156
France	156
France-New Caledonia	111 and 181
Georgia	142
Germany	111
Greece	87 and 122
Guatemala	87, 144, 169 and 182
Guinea	29, 105 and 182
Honduras	144
Iceland	144
India	29

List of the cases in which the Committee has been able to note with interest certain measures taken by the governments of the following countries	
State	Conventions Nos
Indonesia	19
Iraq	111
Ireland	98 and 111
Jamaica	87
Jordan	182
Republic of Korea	156
Kuwait	111
Lao People's Democratic Republic	182
Latvia	142
Lebanon	122
Liberia	182
Libya	100
Lithuania	29, 144 and 156
Madagascar	144
Malaysia	138
Mali	138, 144 and 182
Mauritius	144
Mexico	87
Republic of Moldova	81/129
Morocco	29, 138 and 182
Mozambique	111, 138 and 182
Myanmar	87 and 182
Namibia	111
Nepal	182
New Zealand	144 and 182
Nicaragua	189
Nigeria	81 and 88
Pakistan	87 and 98
Panama	87, 98 and 122
Paraguay	111
Peru	98
Philippines	87 and 98
Poland	81/129, 122 and 142
Portugal	98
Qatar	81 and 111
Romania	81/129

List of the cases in which the Committee has been able to note with interest certain measures taken by the governments of the following countries	
State	Conventions Nos
Russian Federation	95, 98 and 156
Samoa	182
Saudi Arabia	81
Serbia	162
Seychelles	81 and 87
Slovenia	81/129 and 187
Spain	181
Suriname	81/150
Sweden	87 and 98
Switzerland	142
United Republic of Tanzania	17/19 and 81
The former Yugoslav Republic of Macedonia	81/129/150 and 162
Togo	87 and MLC, 2006
Ukraine	117, 156 and 176
United Kingdom	98
United Kingdom – Anguilla	82 and 87
United Kingdom – Falkland Islands (Malvinas)	82
United Kingdom – Jersey	97 and 140
United Kingdom – Montserrat	82
Uruguay	81/129, 100, 111 and 189
Vanuatu	87
Zambia	100 and 111
Zimbabwe	87 and 111

Practical application

90. As part of its assessment of the application of Conventions in practice, the Committee notes the information contained in governments' reports, such as information relating to judicial decisions, statistics and labour inspection. The supply of this information is requested in almost all report forms, as well as under the specific terms of some Conventions.

91. The Committee notes that approximately a quarter of the reports received this year contain information on the practical application of Conventions including information on national jurisprudence, statistics and labour inspection.

92. The Committee wishes to emphasize to governments the importance of submitting such information which is indispensable to complete the examination of national legislation and to help the Committee to identify the issues arising from real problems of application in practice. The Committee also wishes to encourage employers' and workers' organizations to submit clear and up-to-date information on the application of Conventions in practice.

93. Furthermore, based on research undertaken by the Office at the request of the Experts, the Committee initiated a discussion on protection against discrimination based on sexual orientation, gender identity and expression and sexual characteristics in the world of work, in the context of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee requested that the comparative information compiled by the Office be made publicly available.

Observations made by employers' and workers' organizations

94. At each session, the Committee recalls that the contribution by employers' and workers' organizations is essential for the Committee's evaluation of the application of Conventions in national law and in practice. Member States have an obligation under article 23, paragraph 2, of the Constitution to communicate to the representative employers' and workers' organizations copies of the reports supplied under articles 19 and 22 of the Constitution. Compliance with this constitutional obligation is intended to enable organizations of employers and workers to participate fully in the supervision of the application of international labour standards. In some cases, governments transmit the observations made by employers' and workers' organizations with their reports, sometimes adding their own comments. However, in the majority of cases, observations from employers' and workers' organizations are sent directly to the Office which, in accordance with the established practice, transmits them to the governments concerned for comment, so as to ensure respect for due process. For reasons of transparency, the record of all observations received from employers' and workers' organizations on the application of ratified Conventions since the last session of the Committee is included as Appendix III to its report. Where the Committee finds that the observations are not within the scope of the Convention or do not contain information that would add value to its examination of the application of the Convention, it will not refer to them in its comments. Otherwise, the observations received from employers' and workers' organizations may be considered in an observation or in a direct request, as appropriate.

In a reporting year

95. At its 86th Session (2015), the Committee made the following clarifications on the general approach developed over the years for the treatment of observations from employers' and workers' organizations. The Committee recalled that, **in a reporting year**, when observations from employers' and workers' organizations are not provided with the government's report, they should be received by the Office by 1 September at the latest, so as to allow the government concerned to have a reasonable time to respond, thereby enabling the Committee to examine, as appropriate, the issues raised at its session the same year. When observations are received after 1 September, they would not be examined in substance in the absence of a reply from the government, except in exceptional cases. Over the years, the Committee has identified exceptional cases as those where the allegations are sufficiently substantiated and there is an urgent need to address the situation, whether because they refer to matters of life and death or to fundamental human rights or because any delay may cause irreparable harm. In addition, observations referring to legislative proposals or draft laws may also be examined by the Committee in the absence of a reply from the government, where this may be of assistance for the country at the drafting stage.

Outside of a reporting year

96. At its 88th Session, following its consideration of the Governing Body's review of the reporting cycle for technical Conventions from five to six years, the Committee indicated its willingness to consider the manner in which it might broaden the very strict criteria for breaking its cycle of review when receiving comments from workers' or employers' organizations on a specific country under article 23, paragraph 2, of the ILO Constitution and decided that inspiration in this regard could be drawn from those criteria used for "footnoting" cases and set out in paragraph 47 of that year's General Report.

97. In light of the November 2018 Governing Body decision (GB/334/INS/5) expanding the reporting cycle for technical Conventions from five to six years and expressing its understanding that the Committee would further review, clarify and, where appropriate, broaden the criteria for breaking the reporting cycle with respect to technical Conventions, the Committee proceeded with the review of the criteria mentioned above.

98. The Committee recalls that, **in a non-reporting year**, when employers' and workers' organizations send observations which simply repeat comments made in previous years, or refer to matters already raised by the Committee, such comments will be examined in the year when the government's report is due, in accordance with the regular reporting cycle. In this case, a report will not be requested from the government outside of that cycle.

99. Where the observations on a technical Convention meet the criteria set out in paragraph 100 below, the Committee will request the office to issue a notification to Governments that the article 23 observations received will be examined at its subsequent session with or without a response from the government. This would ensure that Governments have sufficient notice while ensuring that the examination of matters of importance are not further delayed.

100. The Committee would thus review the application of a **technical Convention** outside of a reporting year following observations submitted by employers' and workers' organizations having due regard to the following elements:

- the seriousness of the problem and its adverse impact on the application of the Convention;
- the persistence of the problem; and
- the relevance and scope of the government's response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

101. With respect to **any Convention (fundamental, governance or technical)**, recalling its well-established practice, the Committee will examine employers' and workers' observations in a non-reporting year in the year received in the exceptional cases set out in paragraph 95 above, even in the absence of a reply from the government concerned.

102. The Committee emphasized that the procedure set out in the paragraphs above aims at giving effect to decisions taken by the Governing Body which have extended the reporting cycle and called for safeguards in that context, to ensure that effective supervision of the application of ratified Conventions is maintained. One of these safeguards consists in giving due recognition to the possibility afforded to employers' and workers' organizations to draw the attention of the Committee to matters of particular concern arising from the application of ratified Conventions, even in a year when no report is due. The approach above also pays particular attention to the importance of providing due notice to governments, except in exceptional circumstances, and in all cases the Committee will indicate its reasons for breaking the cycle.

103. The Committee notes that this year, the number of observations received from employers' and workers' organizations is lower than in previous years when it had reached unprecedented levels. Since its last session, the Committee has received **745** observations (compared to 1,325 last year), **173** of which (compared to 330 last year) were communicated by employers' organizations and **572** (compared to 995 last year) by workers' organizations. The great majority of the observations received (**699** compared to 836 last year) related to the application of ratified Conventions;²¹ **367** of these observations (compared to 334 last year) concerned the application of fundamental Conventions, **84** (compared to 97 last year) related to governance Conventions and **248** (compared to 405 last year) concerned the application of other Conventions. Moreover, **46** observations (compared to 489 last year) related to the General Survey on the Social Protection Floors Recommendation, 2012 (No. 202).

104. The Committee notes that, **521** of the observations received this year on the application of ratified Conventions were transmitted directly to the Office. In **178** cases, the governments transmitted the observations made by employers' and workers' organizations with their reports. The Committee notes that in general the employers' and workers' organizations concerned endeavoured to gather and present information on the application of ratified Conventions in specific countries, both in law and in practice. The Committee recalls that observations of a general nature relating to certain Conventions are more appropriately addressed within the framework of the Committee's consideration of General Surveys or within other forums of the ILO.

Observations of the International Chamber of Shipping (ICS) on the Maritime Labour Convention, 2006, as amended (MLC, 2006)

105. The Committee notes the observations of the International Chamber of Shipping (ICS) based on article 23 of the ILO Constitution with respect to the Maritime Labour Convention, 2006, as amended (MLC, 2006). The ICS indicates that, in its opinion, no maximum period of service on board is stipulated in the Convention. While the ICS understands that *Regulation 2.5* clearly outlines the maximum period of service on board following which a seafarer is entitled to repatriation, it considers that the seafarer can decide not to exercise this right. The ICS maintains that seafarers should be able to work beyond the 11-month period "if they wish", provided they are compensated appropriately for various reasons: (i) training of cadets; (ii) seafarers' need to complete sea time under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW); (iii) ensuring that seafarers get sea time to obtain promotions, and (iv) seafarers' preference, in some instances, for longer periods on board. The ICS refers in particular to comments made by the Committee in the cases of the Republic of Marshall Islands and Bahamas.

106. The Committee recalls that under *Regulation 2.4*, each Member shall require that seafarers employed on ships that fly its flag are given paid annual leave under appropriate conditions, in accordance with the provisions in the Code (on the basis of a minimum of 2.5 calendar days of leave per month of employment). Pursuant to *Standard A2.4, paragraph 3*, any agreement to forgo the minimum annual leave with pay prescribed in this Standard shall be prohibited, except in cases provided for by the competent authority. Furthermore, according to *Standard A2.5.1, paragraph 2(b)*, each Member shall ensure that there are appropriate provisions in its laws and regulations or other measures or in collective bargaining agreements, prescribing, among others, the maximum duration of service periods on board following which a seafarer is entitled to repatriation – such periods to be less than 12 months.

107. The Convention lays down the following two separate yet interrelated normative principles: (i) seafarers are entitled to be sent home at no cost to themselves at regular intervals of less than 12 months of continuous service, and (ii) seafarers must be given at least 30 days of paid leave for one year of service.

108. Concerning annual leave, *Standard 2.4* explicitly states that any agreement to forgo the minimum annual leave with pay, except in cases provided for by the competent authority, *shall be prohibited*. As a general rule, therefore, any agreement by which seafarers would be paid an amount of money in lieu of annual leave would not be in conformity with the Convention. This prohibition is aimed at guaranteeing the effective realization of the purpose of *Regulation 2.4* which is to ensure that seafarers enjoy a period of annual leave for the benefit of their health and well-being and also intrinsically

²¹ See Appendix III to this report.

linked with ship safety and security. The objective is not only to encourage seafarers to take annual leave but also to prevent fatigue, vessel unseaworthiness and all risks related thereto.

109. With respect to repatriation, the situation is slightly different. In accordance with *Regulation 2.5, paragraph 1*, seafarers have a right to repatriation. However, they may decide for various reasons not to exercise this entitlement when it arises.

110. The Committee has consistently considered that, from the combined reading of *Standard A2.4, paragraphs 2 and 3*, on annual leave and *Standard A2.5.1, paragraph 2(b)*, on repatriation, that the maximum continuous period of shipboard service without leave is in principle 11 months. Indeed, as it has clearly been indicated by the Committee, *Standard A2.4, paragraph 3*, of the MLC, 2006, does not lay down an absolute prohibition as exceptions may be authorized by the competent authority. While the Convention is silent about the nature and scope of permissible exceptions, the Committee considers that this provision needs to be read restrictively in order not to defeat the purpose of *Regulation 2.4*.

111. However, exceptions are indeed permitted on the basis of specific cases provided for by the competent authority taking into account the needs of seafarers and the particularities of sea voyage itself. In this regard, the Committee recalls that it has considered in various instances that the possibility for cadets to forgo the minimum annual leave in order to complete their sea time or on-board training in accordance with training agreements is fully in conformity with the Convention. Another exception could relate more generally to the need of officers to complete service on board to obtain certificates under the STCW. The Convention itself further provides a possible exception in *Guideline B2.4.3* in relation with the possibility to divide annual leave with pay into parts, or accumulate such annual leave with a subsequent period of leave, on the condition that this has been authorized by the competent authority or through the appropriate machinery in each country.

112. Finally, the Committee notes that an important number of countries having ratified the Convention have not encountered difficulties in relation to the prohibition to forgo annual leave and the maximum period of service on board.

113. Therefore the Committee considers that the Convention provides adequate flexibility to address the concerns expressed by the ICS.

Cases in which the need for technical assistance has been highlighted

114. The combination of the work of the supervisory bodies and the practical guidance given to member States through development cooperation and technical assistance has always been one of the key dimensions of the ILO supervisory system. In this regard, the Committee welcomed the fact that the ILO Programme Implementation Report 2016–17, placed particular emphasis on the results of targeted action by the Office to improve the application of international labour standards in particular in response to issues raised by the supervisory bodies, and on ILO assistance for reinforcing the capacity of constituents to address serious reporting failures as well as on creating a virtuous cycle between the work of the supervisory bodies and the ILO's action at country level.²² The Committee also welcomed the information provided by the Office that in 2018, targeted technical assistance continued and was further reinforced in order to support countries with the ratification and implementation of international labour standards and to strengthen the capacity of ministries of labour to fulfil their constitutional obligations (including the preparation of reports on the application of Conventions). The Committee is appreciative of the Office's efforts to better link its technical assistance programme with the work of the supervisory bodies as a means to improve the application of international labour standards in law and practice, including by allocating specific resources for this purpose. In the context of the 2030 Agenda and ongoing UN reform, the Committee underlines the importance of fully integrating international labour standards in the ILO Decent Work Country Programmes and in all United Nations' cooperation frameworks at the country and global levels. In this regard, the Committee takes note of the Resolution concerning effective ILO development cooperation in support of the Sustainable Development Goals adopted by the International Labour Conference at its 107th session (2018) and is particularly encouraged by the call made in the Resolution for the ILO to "assist countries in addressing recommendations from the ILO supervisory bodies regarding the implementation of international labour standards, upon request". **The Committee reiterates its hope that a comprehensive technical assistance programme will be developed in the near future, and that it will be adequately resourced to help all constituents improve the application of international labour standards in both law and practice.**

115. In addition to cases of serious failure by member States to fulfil certain specific obligations related to reporting, the cases for which, in the Committee's view, technical assistance from the Office would be particularly useful in helping member States to address gaps in law and in practice in the implementation of ratified Conventions are highlighted in the following table and details can be found in Part II of this report.

²² See GB.332/PFA/1, paras 79 and 126–129.

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Bahrain	111
Belize	98
Plurinational State of Bolivia	131 and 138
Botswana	87 and 138
Brazil	98
Cabo Verde	MLC, 2006
Cambodia	105
Central African Republic	62 and 142
Côte d'Ivoire	144
Croatia	98
Dominican Republic	187
Ecuador	98
El Salvador	87, 107 and 144
Eritrea	87 and 98
Fiji	87
Guatemala	87 and 182
Guinea	45
Haiti	1/14/30/106
Honduras	87 and 144
Jamaica	98
Lebanon	98
Libya	29, 105 and 182
Lithuania	144
Malaysia	98
Mexico	87
Mongolia	MLC, 2006
Mozambique	87 and 98
Myanmar	63 and 87
Nigeria	45 and 98
Pakistan	98
Panama	98 and 189
Papua New Guinea	98
Paraguay	87
Russian Federation	98 and 150
Saint Kitts and Nevis	138
Saint Vincent and the Grenadines	98
Sao Tome and Principe	98

List of the cases in which technical assistance would be particularly useful in helping member States	
State	Conventions Nos
Serbia	144
Seychelles	87 and 98
Sri Lanka	87 and 98
United Republic of Tanzania	87 and 98
Ukraine	95
United Kingdom	98
United Kingdom – Anguilla	82
Uruguay	87 and 98
Yemen	94, 122 and 144
Zambia	98

C. Reports under article 19 of the Constitution

116. The Committee recalls that the Governing Body decided that the subjects of General Surveys should be aligned with those of the annual recurrent discussions in the Conference under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization, 2008. This year, governments were requested to supply reports under article 19 of the Constitution as a basis for the General Survey on the Social Protection Floors Recommendation, 2012 (No. 202).²³ In accordance with the practice followed in previous years, the survey has been prepared on the basis of a preliminary examination by a working party comprising seven members of the Committee.

117. The Committee notes with *regret* that, for the past five years, none of the reports on unratified Conventions and Recommendations requested under article 19 of the Constitution have been received from the following 32 countries: Afghanistan, Angola, Armenia, Belize, Botswana, Chad, Congo, Cook Islands, Dominica, Eswatini, Grenada, Guinea-Bissau, Guyana, Haiti, Kiribati, Liberia, Libya, Republic of Maldives, Marshall Islands, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, South Sudan, Timor-Leste, Tonga, Tuvalu, United Arab Emirates, Vanuatu and Yemen.

118. *The Committee once again urges governments to provide the reports requested so that its General Surveys can be as comprehensive as possible.*

D. Submission of instruments adopted by the Conference to the competent authorities (article 19, paragraphs 5, 6 and 7, of the Constitution)

119. In accordance with its terms of reference, the Committee this year examined the following information supplied by governments of member States pursuant to article 19 of the Constitution of the Organisation:

- (a) information on measures taken to submit to the competent authorities the instruments adopted by the Conference from June 1970 (54th Session) to June 2017 (106th Session) (Conventions Nos 131–189, Recommendations Nos 135–205 and Protocols); and
- (b) replies to the observations and direct requests made by the Committee at its 88th Session (November–December 2017).

120. Appendix IV of Part II of the report contains a summary of the most recent information received indicating the competent national authorities to which the Protocol of 1944 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session, as well as the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session, were submitted and the date of submission. In addition, Appendix IV

²³ See Report III (Part B), International Labour Conference, 108th Session, Geneva, 2019.

summarizes the information supplied by governments with respect to the instruments adopted earlier and submitted to the competent authorities in 2018.

121. Additional statistical information is found in Appendices V and VI of Part II of the report. Appendix V, compiled based on information provided by governments, shows where each member State stands in terms of its constitutional obligation of submission. Appendix VI shows the overall submission status of each instrument adopted since the 54th Session (June 1970) of the Conference. All instruments adopted prior to the 54th Session of the Conference have been submitted. The statistical data in Appendices V and VI are regularly updated by the competent units of the Office and can be accessed in NORMLEX.

103rd Session

122. At its 103rd Session in June 2014, the Conference adopted the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203). The Committee notes with *interest* that the Protocol of 2014 to the Forced Labour Convention, 1930, which entered into force on 9 November 2016, has been ratified by 27 member States: **Argentina, Bosnia and Herzegovina, Cyprus, Czech Republic, Denmark, Djibouti, Estonia, Finland, France, Iceland, Israel, Jamaica, Latvia, Mali, Mauritania, Mozambique, Namibia, Netherlands, Niger, Norway, Panama, Poland, Spain, Sweden, Switzerland, Thailand and United Kingdom.** *The Committee encourages all governments to continue their efforts to submit the instruments adopted by the Conference at its 103rd Session to their legislatures and to report on any action taken with regard to these instruments.*

104th Session

123. At its 104th Session in June 2015, the Conference adopted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The 12-month period for submission of Recommendation No. 204 to the competent authorities ended on 12 June 2016, and the 18-month period (in exceptional circumstances) on 12 December 2016. The Committee notes that 83 governments have provided information on the submission to the competent authorities of Recommendation No. 204. It refers in this regard to Appendix IV of Part II of the report which contains a summary of information supplied by governments on submission, including with respect to Recommendation No. 204. *The Committee encourages all governments to continue their efforts to submit Recommendation No. 204 to their legislatures and to report on any action taken with regard to this instrument.*

105th and 106th Sessions

124. The Committee recalls that no instrument was adopted at the 105th Session of the Conference (May–June 2016). At its 106th Session in June 2017, the Conference adopted the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205). The 12-month period for submission of Recommendation No. 205 to the competent authorities ended on 16 June 2018, and the 18-month period (in exceptional circumstances) will end on 16 December 2018. The Committee notes that 41 governments have to date provided information on the submission of Recommendation No. 205 to the competent national authorities. *The Committee welcomes the information provided to date and encourages all governments to continue their efforts to submit Recommendation No. 205 to their legislatures and to report on any action taken with regard to this instrument.*

Cases of progress

125. The Committee notes with *interest* the information provided by the governments of the following countries: **Bangladesh, Burundi and Mali.** It welcomes the efforts made by these Governments in overcoming the significant delays in submission and taking important steps toward fulfilling their constitutional obligation to submit to their legislatures the instruments adopted by the Conference over a number of years.

Special problems

126. To facilitate the work of the Conference Committee on the Application of Standards, this report only mentions those governments that have not submitted the instruments adopted by the Conference to their competent authorities for at least seven consecutive sessions. These special problems are referred to as cases of “serious failure to submit”. **This time frame begins at the 96th Session (2007) and concludes at the 106th Session (2017), bearing in mind that the Conference did not adopt any Conventions or Recommendations during its 97th (2008), 98th (2009), 102nd (2013), and 105th (2016) Sessions.** This time frame was deemed long enough to warrant inviting the governments concerned to a special sitting of the Conference Committee so that they could account for delays in submission. In addition, the Committee is also providing information in its observations concerning cases of “failure to submit”, in relation to governments that have not submitted to the competent authorities the instruments adopted at the last six sessions of the Conference.

127. The Committee notes that, at the closure of its 89th Session on 8 December 2018, the following **39** (32 in 2015, 38 in 2016 and 31 in 2017) member States were in the category of “serious failure to submit”: **Afghanistan, Albania, Azerbaijan, Bahamas, Bahrain, Belize, Brunei Darussalam, Chile, Comoros, Congo, Croatia, Dominica, El Salvador, Equatorial Guinea, Fiji, Gabon, Grenada, Guinea-Bissau, Haiti, Kazakhstan, Kiribati, Kuwait, Kyrgyzstan, Liberia, Libya, Malaysia, Malta, Pakistan, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia,**

Saint Vincent and the Grenadines, Samoa, Seychelles, Sierra Leone, Solomon Islands, Somalia, Syrian Arab Republic and Vanuatu.

128. The Committee is aware of the exceptional circumstances that have affected some of these countries for years, as a result of which some of them have been deprived of the institutions needed to fulfil their obligation to submit instruments. At the 107th Session of the Conference (May–June 2018), some Government delegations supplied information explaining why their countries had been unable to meet the constitutional obligation to submit Conventions, Recommendations and Protocols to their national legislatures. Following the concerns raised by the Committee of Experts, the Conference Committee also expressed great concern at the failure to respect this obligation. It pointed out that compliance with this constitutional obligation, which means submitting the instruments adopted by the Conference to national legislatures, is of the utmost importance in ensuring the effectiveness of the Organization's standards-related activities.

129. The abovementioned countries have been identified in observations published in this report, and the Conventions, Recommendations and Protocols that have not been submitted are indicated in the statistical appendices. The Committee considers it worthwhile to alert the governments concerned so as to enable them immediately, and as a matter of urgency, to take appropriate steps to bring themselves up to date and into compliance with this constitutional obligation. This notice also allows the governments to benefit from the measures the Office is prepared to take, upon their request, to assist them in taking the steps required for the rapid submission to their legislature of the pending instruments.

Comments of the Committee and replies from governments

130. As in its previous reports, the Committee makes individual observations in section II of Part II of this report on the points that should be brought to the special attention of governments. In general, observations are made in cases where there has been no information for five or more sessions of the Conference. Furthermore, requests for additional information on other points have been addressed directly to a number of countries (see the list of direct requests at the end of section II).

131. As the Committee has already pointed out, it is important that governments send the information and documents required by the questionnaire appended to the Memorandum adopted by the Governing Body in March 2005. The Committee must receive for examination a summary or a copy of the documents submitting the instruments to the legislative bodies, an indication of the date of submission, and be informed of the proposals made as to the action to be taken on the instruments submitted. The obligation of submission is discharged only once the instruments adopted by the Conference have been submitted to the legislature and a decision has been taken on them. The Office must be informed of this decision, as well as of the submission of instruments to the legislature. The Committee hopes to continue to note cases of progress in this matter in its next report. It again reminds governments that they may seek technical assistance from the ILO, particularly through the standards specialists in the field.

* * *

132. Lastly, the Committee would like to express its appreciation for the invaluable assistance again rendered to it by the officials of the Office, whose competence and devotion to duty make it possible for the Committee to accomplish its complex task in a limited period of time.

Geneva, 8 December 2018

(Signed) Abdul G. Koroma
Chairperson

Shinichi Ago
Reporter

Appendix to the General Report

Composition of the Committee of Experts on the Application of Conventions and Recommendations

Mr Shinichi AGO (Japan)

Professor of Law, Ritsumeikan University, Kyoto; former Professor of International Economic Laws and Dean of the Faculty of Law at Kyushu University; member of the Asian Society of International Law, the International Law Association and the International Society for Labour and Social Security Law; Judge, Asian Development Bank Administrative Tribunal.

Ms Lia ATHANASSIOU (Greece)

Full Professor of Maritime and Commercial Law at the National and Kapodistrian University of Athens (Faculty of Law); Elected Member of the Deanship Council of the Faculty of Law and Director of the Postgraduate Programme on Business and Maritime Law; President of the Organizing Committee of the International Conference on Maritime Law held in Piraeus (Greece) every three years; Ph.D. from the University of Paris I-Sorbonne; authorization by the same university to supervise academic research; LL.M. Aix-Marseille III; LL.M. Paris II Assas; visiting scholar at Harvard Law School and Fulbright Scholar (2007–08); member of Legislative Committees on various commercial law issues. She has lectured and effectuated academic research in several foreign institutions in France, the United Kingdom, Italy, Malta, the United States, etc. She has published extensively on maritime, competition, industrial property, company, European and transport law (eight books and more than 60 papers and contributions in collective works in Greek, English and French); practising lawyer and arbitrator specializing in European, commercial and maritime law.

Ms Leila AZOURI (Lebanon)

Doctor of Law; Professor of Labour Law at the Faculty of Law at Sagesse University, Beirut; Director of Research at the Doctoral School of Law of the Lebanese University; former Director of the Faculty of Law of the Lebanese University until 2016; member of the Executive Bureau of the National Commission for Lebanese Women; Chairperson of the national commission responsible for the preparation of the reports submitted by the Government of Lebanon to the UN Committee on the Elimination of Discrimination against Women (CEDAW) until 2017; legal expert for the Arab Women Organization; member of the “ILO Policy Advisory Committee on Fair Migration” in the Middle East.

Mr Lelio BENTES CORRÊA (Brazil)

Judge at the Labour Superior Court (Tribunal Superior do Trabalho) of Brazil, former Labour Public Prosecutor of Brazil, LL.M of the University of Essex, United Kingdom; former member of the National Council of Justice of Brazil; Professor at the Instituto de Ensino Superior de Brasília; Professor at the National School for Labour Judges.

Mr James J. BRUDNEY (United States)

Professor of Law, Fordham University School of Law, New York, NY; Co-Chair of the Public Review Board of the United Automobile Workers Union of America (UAW); former Visiting Fellow, Oxford University, United Kingdom; former Visiting Faculty, Harvard Law School; former Professor of Law, The Ohio State University Moritz College of Law; former Chief Counsel and Staff Director of the United States Senate Subcommittee on Labour; former attorney in private practice; and former law clerk to the United States Supreme Court.

Mr Halton CHEADLE (South Africa)

Professor Emeritus at the University of Cape Town; former Special Adviser to Minister of Justice; former Chief Legal Counsel of the Congress of South African Trade Unions; former Special Adviser to the Labour Minister; former Convener of the Task Team to draft the South African Labour Relations Act.

Ms Graciela DIXON CATON (Panama)

Former President of the Supreme Court of Justice of Panama; former President of the Penal Court of Cassation and of the Chamber of General Business Matters of the Supreme Court of Panama; former President of the International Association of Women Judges; former President of the Latin American Federation of Judges; former National Consultant for the United Nations Children's Fund (UNICEF); currently Judge of the Inter-American Development Bank Administrative Tribunal; Arbitrator at the Court of Arbitration of the Official Chamber of Commerce of Madrid; Arbitrator at the Center for Dispute Resolution (CESCON) of the Panamanian Chamber of Construction, as well as for the Conciliation and Arbitration Center of the Panamanian Chamber of Commerce; and legal adviser and international consultant.

Mr Rachid FILALI MEKNASSI (Morocco)

Doctor of Law; former Professor at the University Mohammed V of Rabat; member of the Higher Council of Education, Training and Scientific Research; consultant with national and international public bodies, including the World Bank, the United Nations Development Programme (UNDP), the Food and Agriculture Organization of the United Nations (FAO), and UNICEF; National Coordinator of the ILO project "Sustainable Development through the Global Compact" (2005–08).

Mr Abdul G. KOROMA (Sierra Leone)

Judge at the International Court of Justice (1994–2012); former President of the Henry Dunant Centre for Humanitarian Dialogue in Geneva; former member and Chairman of the International Law Commission; former Ambassador and Permanent Representative of Sierra Leone to the United Nations (New York) and former Ambassador Plenipotentiary to the European Union, Organisation of African Unity (OAU) and many countries.

Mr Alain LACABARATS (France)

Judge at the Court of Cassation; former President of the Civil Chamber of the Court of Cassation; former President of the Social Chamber of the Court of Cassation; member of the Higher Council of the Judiciary; member of the European Network of Councils for the Judiciary and the Consultative Council of European Judges (Council of Europe); former Vice-President of the Paris Regional Court; former President of the Paris Appellate Court Chamber; former lecturer at several French universities and author of many publications.

Ms Elena E. MACHULSKAYA (Russian Federation)

Professor of Law, Department of Labour Law, Faculty of Law, Moscow State Lomonosov University; Professor of Law, Department of Civil Proceedings and Social Law, Russian State University of Oil and Gas; Secretary, Russian Association for Labour and Social Security Law, 2011–16; member of the European Committee of Social Rights; member of the President's Committee of the Russian Federation on the Rights of Persons with Disabilities (non-paid basis).

Ms Karon MONAGHAN (United Kingdom)

Queen's Counsel; Deputy High Court Judge; former Judge of the Employment Tribunal (2000–08); practising lawyer with Matrix Chambers, specializing in discrimination and equality law, human rights law, European Union law, public law and employment law; advisory positions include Special

Adviser to the House of Commons Business, Innovation and Skills Committee for the inquiry on women in the workplace (2013–14); Honorary Visiting Professor, Faculties of Laws, University College London.

Mr Vitit MUNTARBHORN (Thailand)

Professor Emeritus of Law, Chulalongkorn University, Thailand; former United Nations University Fellow at the Refugee Studies Programme, Oxford University; former United Nations Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography; former United Nations Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea; former Chairperson of the United Nations Coordination Committee of Special Procedures; Chairperson of the United Nations Commission of Inquiry on the Ivory Coast (2011); former member, Advisory Board, United Nations Human Security Fund; a Commissioner of the United Nations Commission of Inquiry on the Syrian Arab Republic (2012–16); recipient of the 2004 UNESCO Prize for Human Rights Education; former United Nations Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity; member of UNESCO Board on Global Education Monitoring Report.

Ms Rosemary OWENS (Australia)

Professor Emerita of Law, Adelaide Law School, University of Adelaide; former Dame Roma Mitchell Professor of Law (2008–15); former Dean of Law (2007–11); Officer of the Order of Australia; Fellow of the Australian Academy of Law (and Director (2014–16)); former editor and currently member of the editorial board of the *Australian Journal of Labour Law*; member of the scientific and editorial board of the *Révue de droit comparé du travail et de la sécurité sociale*; member of the Australian Labour Law Association (and former member of its National Executive); International Reader for the Australian Research Council; Chairperson of the South Australian Government's Ministerial Advisory Committee on Work-Life Balance (2010–13); Chairperson and member of the Board of Management of the Working Women's Centre (SA) (1990–2014).

Ms Mónica PINTO (Argentina)

Professor of International Law and Human Rights Law and former Dean at the University of Buenos Aires Law School. Associate member of the *Institut de droit international*. President of the World Bank Administrative Tribunal and Judge at the Inter-American Development Bank Administrative Tribunal; member of the ICSID Panel of Conciliators and Arbitrators; Vice-President of the Advisory Committee on Nominations for the International Criminal Court; member of the International Advisory Board of the American Law Institute for the Fourth Restatement on Foreign Relations. She has appeared before different human rights bodies, arbitral tribunals and the International Court of Justice as a counsel, as an expert. She currently serves as an arbitrator. She has served in different capacities as human rights expert for the UN. She has been visiting professor of law at Columbia Law School, University of Paris I and II, University of Rouen. She has taught at The Hague Academy of International Law. She is the author of some books and many articles.

Mr Paul-Gérard POUGOUÉ (Cameroon)

Professor of Law (*agrégé*), Professor Emeritus, Yaoundé University; guest or associate professor at several universities and at the Hague Academy of International Law; on several occasions, President of the jury for the *agrégation* competition (private law and criminal sciences section) of the African and Malagasy Council for Higher Education (CAMES); former member (1993–2001) of the Scientific Council of the *Agence universitaire de la Francophonie* (AUF); former member (2002–12) of the Council of the International Order of Academic Palms of CAMES; member of the International Society for Labour and Social Security Law, the International Foundation for the Teaching of Business Law, the Association Henri Capitant and the Society of Comparative Law; founder and Director of the review *Juridis périodique*; President of the Association for the Promotion of Human Rights in Central Africa (APDHAC); Chairperson of the Scientific Board of the Labour Administration Regional African Centre (CRADAT); Chairperson of the Scientific Board of the Catholic University of Central Africa (UCAC).

Mr Raymond RANJEVA (Madagascar)

President of the Madagascar National Academy of Arts, Letters and Sciences; former member (1991–2009), Vice-President (2003–06) and senior judge (2006–09) of the International Court of Justice (ICJ), and President (2005) of the Chamber formed by the ICJ to deal with the Benin/Niger frontier dispute; Bachelor's degree in Law (1965), University of Madagascar, Antananarivo; Doctorate of Law, University of Paris II; *Agrégé* of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972); Doctor honoris causa of the Universities of Limoges, Strasbourg and Bordeaux-Montesquieu;

former Professor at the University of Madagascar (1981–91) and other institutions; former First Rector of the University of Antananarivo (1988–90); member of the Malagasy delegation to several international conferences; Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties (1976–77); former first Vice-President for Africa of the International Conference of French-speaking Faculties of Law and Political Science (1987–91); member of the Court of Arbitration of the International Chamber of Commerce; member of the Court of Arbitration for Sport; member of the Institute of International Law; member of numerous national and international professional and academic societies; Curatorium of the Hague Academy of International Law; member of the Pontifical Council for Justice and Peace; President of the African Society of International Law since 2012; former Vice-Chairman of the International Law Institute (2015–17); Chairperson of the ILO Commission of Inquiry on Zimbabwe.

Ms Kamala SANKARAN (India)

Professor, Faculty of Law, University of Delhi and currently Vice Chancellor, Tamil Nadu National Law University, Tiruchirappalli; Former Dean, Legal Affairs, University of Delhi; member, Working Group on Migration, Ministry of Housing and Urban Poverty Alleviation; member, Task Force to Review Labour Laws, National Commission for Enterprises in the Unorganised and Informal Sector, Government of India; member, International Advisory Board, International Journal of Comparative Labour Law and Industrial Relations; Fellow, Stellenbosch Institute of Advanced Study, South Africa (2011, 2009); Visiting South Asian Research Fellow, School of Interdisciplinary Area Studies, Oxford University (2010); Fulbright Post-Doctoral Research Scholar, Georgetown University Law Center, Washington, DC (2001).

Ms Deborah THOMAS-FELIX (Trinidad and Tobago)

President of the Industrial Court of Trinidad and Tobago since 2011; Judge of the United Nations Appeals Tribunal since 2014; former President and Second Vice-President of the United Nations Appeals Tribunal; former Chair of the Trinidad and Tobago Securities and Exchange Commission; former Chair of the Caribbean Group of Securities Regulators; former Deputy Chief Magistrate of the Judiciary of Trinidad and Tobago; former President of the Family Court of Saint Vincent and the Grenadines; Hubert Humphrey Fulbright Fellow; Georgetown University Leadership Seminar Fellow; and Commonwealth Institute of Judicial Education Fellow.

Mr Bernd WAAS (Germany)

Professor of Labour Law and Civil Law at the University of Frankfurt; Coordinator and member of the European Labour Law Network; Coordinator of the European Centre of Expertise in the field of labour law, employment and labour market policies (ECE); President of the German Society for Labour and Social Security Law and member of the Executive Committee of the International Society for Labour and Social Security Law (ISLSSL); member of the Advisory Committee of the Labour Law Research Network (LLRN).



Part II. Observations concerning particular countries

I. Observations concerning reports on ratified Conventions (articles 22, 23, paragraph 2, and 35 of the Constitution)

General observation

(article 23, paragraph 2, of the Constitution)

The Committee recalls that the purpose of the obligation to communicate copies of reports on ratified Conventions to representative employers' and workers' organizations, established in article 23, paragraph 2, of the Constitution, is to enable these organizations to make their own observations on the application of ratified Conventions. The Committee emphasizes that the information received from employers' and workers' organizations bears witness to their involvement in the reporting system and that such information has often led to better knowledge and understanding of the difficulties that countries have met. Further to its general observation of last year, the Committee welcomes the fact that nearly all countries have fulfilled this obligation this year. However, it notes that none of the reports supplied by the following countries indicate the employers' and workers' organizations to which a copy has been communicated: **Angola** (2018) **Ethiopia** (2018), **Fiji** (2016, 2017 and 2018), **Jordan** (2018), **Kenya** (2018), **Lao People's Democratic Republic** (2017 and 2018), **Libya** (2018), **Mozambique** (2018), **Rwanda** (2014, 2015, 2016, 2017 and 2018), **Samoa** (2018), **Solomon Islands** (2018), **Turkmenistan** (2018), **United Republic of Tanzania** (2018) and **Yemen** (2018). The Committee also notes that a majority of the reports received from **Liberia** (2018) and **Nigeria** (2018) do not indicate the representative employers' and workers' organizations to which copies of the reports were communicated. *The Committee requests each of these Governments to fulfil their constitutional obligation without delay.*

General observations

(articles 22 and 35 of the Constitution)

Brunei Darussalam

The Committee notes with *regret* that, for the second year, the reports due on ratified Conventions have not been received. Two reports are now due for this country on fundamental Conventions which should have included information in reply to the Committee's comments. The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Chad

The Committee notes with *regret* that, for the second year, the reports due on ratified Conventions have not been received. Fourteen reports are now due for this country on fundamental, governance and technical Conventions, including the first reports on the Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Employment Policy Convention, 1964 (No. 122), due since 2017. In addition, the majority of these reports should have included information in reply to the Committee's comments. The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Congo

The Committee notes with **concern** that the first report on the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), as amended, due since 2015, and the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006), due since 2016, have not been received. None of the 13 reports requested this year have been received, on fundamental, governance and technical Conventions, including the first report on the Work in Fishing Convention, 2007 (No. 188). In addition, most of these reports should have included information in reply to the Committee's comments. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraphs 8–10 of its 2018 Report), the Committee launches an **urgent appeal** to the Government to send its reports concerning Convention No. 185 and the MLC, 2006, without delay and advises the Government that, even in the absence of a report, the Committee will fully review the application of these Conventions at its next meeting on the basis of available information. Recalling that technical assistance was provided on these issues this year by the International Training Centre of the ILO, the Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Dominica

The Committee notes with **deep concern** that, for the sixth year, the reports due on ratified Conventions have not been received. Twenty-six reports are now due for this country on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this regard.

Equatorial Guinea

The Committee notes with **deep concern** that, for the last 12 years, the reports due on ratified Conventions have not been received. Fourteen reports are now due for this country on fundamental and technical Conventions, most of which should have included information in reply to the Committee's comments. Of these 14 reports, two are first reports on the application of the Food and Catering (Ships' Crews) Convention, 1946 (No. 68), and the Accommodation of Crews Convention (Revised), 1949 (No. 92), due since 1998. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraphs 8–10 of its 2018 Report), the Committee launches an **urgent appeal** to the Government to send its reports concerning Conventions Nos 68 and 92 without delay and advises the Government that, even in the absence of a report, the Committee will fully review the application of these Conventions at its next meeting on the basis of available information. The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this regard.

Gabon

The Committee notes with **concern** that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006), due since 2016, has not been received. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraphs 8–10 of its 2018 Report), the Committee launches an **urgent appeal** to the Government to send its report concerning the MLC, 2006, without delay and advises the Government that, even in the absence of a report, the Committee will fully review the application of this Convention at its next meeting on the basis of available information. The Committee hopes that the Government will soon submit its report in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Gambia

The Committee notes with **deep concern** that, for the seventh year, the reports due on ratified Conventions have not been received. Eight reports are now due for this country on fundamental Conventions, which should have included information in reply to the Committee's comments. The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this regard.

Grenada

The Committee notes with **regret** that, for the second year, the reports due on ratified Conventions have not been received. Eleven reports are now due for this country on fundamental, governance and technical Conventions, most of

which should have included information in reply to the Committee's comments. The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Guinea-Bissau

The Committee notes with *deep concern* that, for the fifth year, the reports due on ratified Conventions have not been received. Twenty-five reports are now due for this country on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this regard.

Kiribati

The Committee notes with *concern* that the first report on the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), as amended, due since 2015, has not been received. Only two reports have been received of the nine requested. Seven reports are still due for this country on fundamental and technical Conventions, most of which should have included information in reply to the Committee's comments. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraphs 8–10 of its 2018 Report), the Committee launches an *urgent appeal* to the Government to send its report concerning Convention No. 185 without delay and advises the Government that, even in the absence of a report, the Committee will fully review the application of this Convention at its next meeting on the basis of available information. The Committee also notes that during the discussion in the Committee on the Application of Standards, the Government indicated that they had been experiencing staff turnover for the past few years, nevertheless the technical assistance received from the ILO would build the capacity of the Government to report as required. Recalling that technical assistance was provided on these issues this year by the International Training Centre of the ILO, the Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Malaysia

Sabah

The Committee notes with *concern* that, for the third year, the reports due on ratified Conventions have not been received. Three reports are now due for this country on technical Conventions, most of which should have included information in reply to the Committee's comments. The Committee notes that during the discussion in the Committee on the Application of Standards, the Government indicated that steps have been taken to foster engagements between the agencies and ministries involved in matters relating to labour standards to address these issues regarding reporting obligations. The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Republic of Maldives

The Committee notes with *concern* that the first report on the Equal Remuneration Convention, 1951 (No. 100), due since 2015, and the first reports on the Maritime Labour Convention, 2006, as amended (MLC, 2006), and the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), as amended, due since 2016, have not been received. None of the seven reports requested this year have been received, on fundamental and technical Conventions, most of which should have included information in reply to the Committee's comments. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraphs 8–10 of its 2018 Report), the Committee launches an *urgent appeal* to the Government to send its reports concerning Conventions Nos 100 and 185 and the MLC, 2006, without delay and advises the Government that, even in the absence of a report, the Committee will fully review the application of these Conventions at its next meeting on the basis of available information. The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Netherlands

Curaçao

The Committee notes with *regret* that the first report on the Maritime Labour Convention, as amended (MLC, 2006), due since 2017, and the first report due this year on the Worst Forms of Child Labour Convention, 1999 (No. 182), have not been received. The Committee notes that during the discussion in the Committee on the Application of Standards, the Government of the Netherlands indicated that it was in contact with the Government of Curaçao to ensure the timely submission of the information requested. The Committee hopes that the Government of Curaçao will soon submit all its reports in accordance with its constitutional obligation.

Nicaragua

The Committee notes with *concern* that the first report on the Maritime Labour Convention, as amended (MLC, 2006), due since 2015, has not been received. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraphs 8–10 of its 2018 Report), the Committee launches an *urgent appeal* to the Government to send its report concerning the MLC, 2006, without delay and advises the Government that, even in the absence of a report, the Committee will fully review the application of this Convention at its next meeting on the basis of available information. The Committee also notes that during the discussion in the Committee on the Application of Standards, the Government indicated that the delay was due to the fact that the competent authorities were currently holding discussions and consultations, with the participation of the social partners and other interested parties, and once the process had been completed, the relevant report would be sent. The Committee hopes that the Government will soon submit its report in accordance with its constitutional obligation.

Romania

The Committee notes with *regret* that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006), due since 2017, has not been received. None of the six reports requested this year have been received, on fundamental, governance and technical Conventions, some of which should have included information in reply to the Committee's comments. The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Saint Lucia

The Committee notes with *deep concern* that, for the fifth year, the reports due on ratified Conventions have not been received. Twenty-two reports are now due for this country on fundamental and technical Conventions, most of which should have included information in reply to the Committee's comments. Recalling that technical assistance was provided on these issues this year by the International Training Centre of the ILO, the Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Saint Vincent and the Grenadines

The Committee notes with *deep concern* that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006), due since 2014, has not been received. Only five of the 21 reports requested this year have been received, on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraphs 8–10 of its 2018 Report), the Committee launches an *urgent appeal* to the Government to send its report concerning the MLC, 2006, without delay and advises the Government that, even in the absence of a report, the Committee will fully review the application of this Convention at its next meeting on the basis of available information. The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this regard.

Sierra Leone

The Committee notes with *concern* that, for the second year, the reports due on ratified Conventions have not been received. Twenty-three reports are now due for this country on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. Recalling that technical assistance was provided on these issues in 2017 and 2018 by the Decent Work Team for West Africa and the International Training

Centre of the ILO, the Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Somalia

The Committee notes with **deep concern** that, for the thirteenth year, the reports due on ratified Conventions have not been received. Sixteen reports are now due for this country on fundamental and technical Conventions, some of which should have included information in reply to the Committee's comments. Of these 16 reports, three are first reports on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Worst Forms of Child Labour Convention, 1999 (No. 182), due since 2016. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraphs 8–10 of its 2018 Report), the Committee launches an **urgent appeal** to the Government to send its reports concerning Conventions Nos 87, 98 and 182 without delay and advises the Government that, even in the absence of a report, the Committee will fully review the application of these Conventions at its next meeting on the basis of available information. The Committee firmly hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this regard.

South Sudan

The Committee notes with **regret** that, for the second year, the reports due on ratified Conventions have not been received. Three reports are now due for this country on fundamental Conventions, which should have included information in reply to the Committee's comments. The Committee notes that during the discussion in the Committee on the Application of Standards, the Government underlined its commitment to meet its constitutional obligations. The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Timor-Leste

The Committee notes with **concern** that, for the fourth year, the reports due on ratified Conventions have not been received. Six reports are now due for this country on fundamental Conventions, including the first reports on the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), most of which should have included information in reply to the Committee's comments. The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this regard.

Trinidad and Tobago

The Committee notes with **regret** that, for the second year, the reports due on ratified Conventions have not been received. Seven reports are now due for this country on fundamental, governance and technical Conventions, which should have included information in reply to the Committee's comments. Recalling that technical assistance was provided on these issues this year by the ILO Decent Work Team for the Caribbean and the International Training Centre of the ILO, the Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Afghanistan, Albania, Antigua and Barbuda, Barbados, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominican Republic, France: French Polynesia, France: French Southern and Antarctic Territories, Ghana, Guinea, Guyana, Haiti, Hungary, Jamaica, Jordan, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Malawi, Malaysia: Peninsular Malaysia, Malaysia: Sarawak, Malta, Mauritania, Mexico, Republic of Moldova, Montenegro, Netherlands: Aruba, Papua New Guinea, Portugal, San Marino, Sao Tome and Principe, Singapore, Slovenia, South Africa, Sri Lanka, Tajikistan, Uganda.*

Freedom of association, collective bargaining, and industrial relations

Algeria

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2018, referring to legislative matters, most of which are already being examined by the Committee and, in addition, reporting persistent violations of the Convention in practice, particularly the prohibition to leave the country on the General Secretary of the National Autonomous Union of Public Administration Personnel (SNAPAP) while she was due to participate in the work of the June 2018 International Labour Conference; police intervention to prevent the General Assembly of the Algerian Union of Electronic Press Editors from being held in February 2018; and the fact that a trade union leader was brought before the courts following a call to hold a General Assembly for the Higher Education Teachers' Union (SESS) in November 2017. The Committee also notes that the observations of the ITUC, supported by those of the General and Autonomous Confederation of Workers in Algeria (CGATA), received on 28 August 2018, refer to an unchanging situation regarding the particularly long delays and unjustified refusals of new applications for union registration. ***The Committee requests the Government to provide its comments in this regard.***

The Committee notes the observations of the Autonomous National Union of Electricity and Gas Workers (SNATEGS), received on 5 July 2018 concerning the numerous obstacles to the freedom to organize its activities. In this regard, the Committee notes that at its June 2018 meeting, the Committee on Freedom of Association examined the complaint presented by SNATEGS and made recommendations requesting, in particular, the Government to ensure respect for legislative provisions to enable the trade union to carry out its activities and represent its members (Case No. 3210, 386th Report of the Committee on Freedom of Association). ***The Committee trusts that the Government will take all necessary measures in this regard and that it will report on tangible measures.*** Lastly, the Committee notes the observations received on 10 September 2018 of the Confederation of Productive Workers (COSYFOP), the National Union of Industrial Workers (SNSI) and the National Union of Energy Workers (SNT ENERGIE) alleging violations of the Convention in practice. ***It requests the Government to provide comments in this regard.***

Given the continuing allegations concerning particularly serious obstacles to the exercise of freedom of to organize, the Committee is bound to recall that the ILO supervisory bodies have unceasingly stressed the interdependence between civil liberties and trade union rights, emphasizing that a truly free and independent trade union movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations (see the 2012 General Survey on the fundamental Conventions, paragraph 59). ***The Committee urges the Government to ensure respect of this principle.***

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion that took place in the Conference Committee in June 2018, concerning the application of the Convention by Algeria. The Committee notes that, in its conclusions, the Conference Committee requested the Government to: (i) ensure that the registration of trade unions in law and in practice conforms with the Convention; (ii) process pending applications for the registration of trade unions which have met the requirements set out by law and allow the trade unions to freely carry out their activities; (iii) ensure that the new draft Labour Code is adopted in consultation with the most representative workers' and employers' representatives and that it is in compliance with the Convention; (iv) amend section 4 of Act No. 90-14 in order to remove obstacles to the establishment by workers' organizations of federations and confederations of their own choosing, irrespective of the sector to which they belong; (v) amend section 6 of Act No. 90-14 in order to recognize the right of all workers, without distinction of any kind, to establish trade unions; (vi) ensure that freedom of association can be exercised in a climate free of intimidation and without violence against workers, trade unions, employers or employers' organizations; (vii) provide further information on the prompt reinstatement of employees of the Government, terminated based on anti-union discrimination. Lastly, the Conference Committee urgently called on the Government to accept an ILO high-level mission and to report, as of the current year, progress to the Committee of Experts. The Committee notes that in a communication received on 13 November 2018 the Government contests certain conclusions of the Conference Committee that it considers selective, discriminatory and constituting an attack on national sovereignty and on the independence of the judiciary. The Government also indicates that since August 2018 it has been holding constructive discussions with the International Labour Office to find a solution to the situation. ***Noting that the high-level mission urged by the Conference Committee has not yet taken place, the Committee trusts that the Government will accept this mission in the near future to enable the Committee to note the measures taken and progress achieved in matters raised relating to the application of the Convention.***

Legislative issues

Amendment of the Act issuing the Labour Code. The Committee once again recalls that the Government has been referring, since 2011, to the process of reforming the Labour Code. In its reply to the conclusions of the Conference Committee in June 2017, the Government indicated that the latest version of the draft of the new Labour Code had been transmitted to the independent trade unions for their opinion, and to local government sector departments. In June 2018, the Government indicated to the Conference Committee that no efforts were spared in the dialogue with its economic and social partners to produce a Labour Code based on consensus which will consolidate the lessons learned from the experience of implementing the social Acts in force and will meet the expectations of the economic stakeholders. ***Noting that the process has not yet been completed despite the passage of many years, the Committee urges the Government to take all the necessary measures with a view to completing, without any further delay, the reform of the Labour Code. The Committee, in a request addressed directly to the Government, is making comments on the 2015 version of the draft text relating to the application of the Convention, which it expects the Government will take duly into account in the adoption of the requested amendments.***

With regard to the other legislative issues raised in its previous comments, the Committee notes with *regret* the absence of any tangible measure by the Government to implement the amendments requested since 2006. ***The Committee expects the Government to take all necessary measures in the near future to adopt the requested amendments to the following provisions.***

Article 2 of the Convention. Right to establish trade union organizations. The Committee recalls that its comments focused on section 6 of Act No. 90-14 of 2 June 1990 on the exercise of the right to organize, which restricts the right to establish a trade union organization to persons who are originally of Algerian nationality or who acquired Algerian nationality at least ten years earlier. The Government previously indicated that the required period during which Algerian nationality must have been held has been reduced to five years and that this provision is currently being discussed with the social partners. ***In the absence of information in this regard, the Committee trusts that the discussions will shortly lead to the revision of section 6 of Act No. 90-14 to remove the requirement of nationality and ensure that the right of all workers is recognized, without distinction of this kind, to establish trade unions. The Committee also refers the Government to its comments in its direct request in which it asks the Government to amend the provisions in the draft Bill issuing the Labour Code on the same issue.***

Article 5. Right to establish federations and confederations. The Committee recalls that its comments have related for many years to sections 2 and 4 of Act No. 90-14 which, read jointly, have the effect of restricting the establishment of federations and confederations in an occupation, branch or sector of activity. The Committee previously noted the Government's indication that section 4 of the Act would be amended to include a definition of federations and confederations. ***In the absence of information in this regard, the Committee is bound to indicate once again that it expects that the Government will undertake, as soon as possible, the revision of section 4 of Act No. 90-14 in order to remove any obstacles to the establishment by workers' organizations, irrespective of the sector to which they belong, of federations and confederations of their own choosing. The Committee also refers the Government to its comments in its direct request in which it asks the Government to amend the provisions of the draft Bill issuing the Labour Code on the same issue.***

Registration of trade unions in practice

The Committee recalls that its comments have related for several years to the issue of particularly long delays in the registration of trade unions and to the apparently unjustified refusal of the authorities to register certain independent trade union organizations. In its previous comments, the Committee referred, in particular, to the situation of the CGATA, the Autonomous Union of Attorneys in Algeria (SAAA) and the Autonomous Algerian Union of Transport Workers (SAATT). The Committee notes the information provided by the Government to the Conference Committee in this regard. With regard to the SAATT, which submitted an application in 2014, the Government indicates that the application submitted did not correspond to the conditions set out in the provisions of Act No. 90-14, and that the authorities had highlighted in particular a lack of precision in the determination of the occupational category covered by the by-laws, which did not contain the provisions that have to be included in the by-laws as set out in section 21 of the Act. The Government indicated that the parties concerned had not replied nor requested details on their application. With regard to the SAAA, which submitted an application in 2015, the Government indicates that the authorities had found, in the union's draft by-laws, categories of persons who had the status of salaried employees, and also those with the status of employers. The Government recalled that the Act made a distinction between a union of salaried employees and an employers' organization and that the persons concerned had been informed of the need to comply with the provisions of legislation but had not replied. With regard to the CGATA, the Government once again recalls that this organization has been invited since 2015, the year it submitted its application, to bring its founding texts into conformity with legislation and that, to date, it has not replied to the request of the administration. The Government adds that the alleged president of the CGATA had been removed from his post under legal and regulatory procedures for abandoning his post to take unauthorized leave and that, owing to this situation, he had lost his status as a paid employee. In this regard, the Committee notes that, in their respective observations, the CGATA and the ITUC indicate that the authorities' refusal to register the trade unions did not include any information on the issues to be amended in order to comply with the legislation, and that, to date, the authorities had not responded to the CGATA's attempt to obtain these details.

Furthermore, the Committee notes the observations of the ITUC concerning the particularly long delay to process the registration of the SESS, which submitted an application in 2012 and which delay is irrespective of the fact that the SESS had reformulated its by-laws as requested by the authorities. The Committee also notes with **concern** the list provided by the ITUC and the CGATA of nine trade unions which had applied for registration and had in the end dropped their applications because of the authorities' demands and the time that passed without obtaining registration. Lastly, the Committee notes that the ITUC reports the fact that on 6 March 2018 the Government, without any legal framework, called on the 65 accredited trade unions in the country to prove their representativity by using a form on the website of the Ministry of Labour, Employment and Social Security, thereby excluding from the process all autonomous trade unions, including the CGATA and SNATEGS.

The Committee notes with **regret** that trade union registration remains particularly problematic, particularly given the conflicting information provided by the Government and the trade unions on the practice. The Committee recalls that, in its view, the regulations providing for formalities are not in themselves incompatible with the Convention, provided that they do not in practice impose a requirement of "previous authorization", in violation of *Article 2*, or give the authorities discretionary power to refuse the establishment of an organization; nor must they constitute such an obstacle that they amount in practice to a pure and simple prohibition. The Committee also emphasizes that provision should be made for the possibility of an appeal against any administrative decision of this kind to be examined without delay by an independent and impartial jurisdiction. Lastly, in the view of the Committee, although the official recognition of an organization through its registration constitutes a relevant aspect of the right to organize, as it is the first measure to be taken so that organizations can fulfil their role effectively, the exercise of legitimate trade union activities should not be dependent upon registration (see the 2012 General Survey on the fundamental Conventions, paragraphs 82 and 83). ***The Committee expects the Government to ensure full respect of these principles. In this connection, the Committee encourages the Government to adopt the consistent practice of systematically and diligently providing the trade unions which apply for registration with, where relevant, prompt justifications in the case of refusal, in order that the unions are fully informed of the necessary corrective measures to be taken. The Committee urges the Government to ensure that the organizations which show interest are promptly informed of any additional formalities to be followed for their registration and that all necessary measures are taken by the competent authorities to ensure prompt registration of the organizations which have met legislative requirements. Therefore, the Committee expects that the Government will proceed as a matter of urgency to the registration of the CGATA, SESS, SAAA and SATT where they have met the requirements set out by law.***

The Committee is raising other matters in a request addressed directly to the Government.

Argentina

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the observations of: the Confederation of Workers of Argentina (CTA Autonomous) and the Confederation of Workers of Argentina (CTA Workers), received on 13 July 2017, and the Government's response; CTA Autonomous and CTA Workers, both received on 1 September 2017; the General Confederation of Labour of the Argentine Republic (CGT RA), received on 31 August 2018; the International Trade Union Confederation (ITUC) and CTA Autonomous, both received on 1 September 2018; the International Transport Workers' Federation (ITF), received on 4 September 2018; and CTA Workers, received on 12 September 2018. The Committee notes that some of the issues raised by the social partners are the subject of cases before the Committee on Freedom of Association (particularly Cases Nos 3229, 3257 and 3272), and it refers to the examination, recommendations and follow-up of the Committee on Freedom of Association on these issues.

The Committee notes that the remaining observations pertain to issues addressed in this comment and further notes the following serious allegations of violations of the Convention in practice: the violent suppression of trade union protests, anti-union physical assaults and threats to workers and the detention, prosecution and imprisonment of trade unionists; attacks on trade union premises; obstacles to and the prohibition of the organization of strikes, with the sanctioning, replacement and dismissal of strikers; undue interventions and interference by the authorities in trade union activities; obstacles to the collection of union dues and disproportionate fines for direct action during compulsory arbitration; and verbal attacks by the Government on the trade union movement.

The Committee also notes that the Government, in its responses to the 2016 allegations of CTA Autonomous and CGT RA, indicates that it needs further information in order to investigate some of the allegations raised previously. The Committee also notes that the Government: (i) affirms that, in some sectors in the country, labour disputes tend to go hand-in-hand with disregard for the rights of other citizens and the institutions of the Republic; (ii) considers that social protest involves the questioning of political governance, which goes beyond the exercise of freedom of association; and (iii) provides a copy of the Protocol on action by state security forces in public demonstrations of 17 February 2016, which the workers' organizations allege limits picketing, and indicates that the sole purpose of the Protocol is to protect the rights of all citizens, such as the right to freedom of movement and work, thereby rendering the development of the dispute more predictable and preserving social harmony. The Committee also notes that the Government emphasizes that

the country often appears before the ILO supervisory system due to: the esteem accorded to the ILO in the country and among its social partners; the active presence of the Organization in the social, political and institutional life in the country; and the support that Argentina, as a founder Member, has always given to all ILO bodies. In this context, the Government proposes the establishment of two tripartite committees with the assistance of the ILO to address pending issues or those that may arise in the future in relation to compliance with international labour standards, in conformity with the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144): (i) one committee to address issues raised by the regular supervisory system under articles 19, 22 and 23 and representations under article 24 of the ILO Constitution; and (ii) a second committee on the special procedure for complaints relating to freedom of association.

While noting that both the Government and the social partners express concern at the growing levels of conflict and protest, the Committee trusts that the initiative proposed to promote social dialogue will materialize in the near future in consultation with the social partners. The Committee encourages the Government to submit to these new tripartite committees the issues raised in this comment as well as the allegations presented in the observations of the workers' organizations, and invites the workers' organizations to provide the necessary information to address pending issues regarding the application of the Convention in practice. The Committee requests the Government to report any developments in this respect.

Articles 2, 3 and 6 of the Convention. Autonomy of trade unions and the principle of non-interference of the State. The Committee recalls that for many years it has been requesting the Government to take measures to amend the following provisions of Act No. 23551 of 1988 on trade union associations (LAS) and of the corresponding implementing Decree No. 467/88, which are not in conformity with the Convention:

- *Trade union status:* (i) section 28 of the LAS, under which, in order to challenge an association's trade union status, the petitioning association must have a "considerably larger" membership; and section 21 of implementing Decree No. 467/88, which qualifies the term "considerably larger" by providing that the association claiming trade union status must have at least 10 per cent more dues-paying members than the organization that currently has the status; (ii) section 29 of the LAS, under which an enterprise trade union may be granted trade union status only when no other organization with trade union status exists in the geographical area, occupation or category; and (iii) section 30 of the LAS, under which, in order to be eligible for trade union status, unions representing a trade, occupation or category have to show that they have different interests from the existing trade union, and that the latter's status must not cover the workers concerned.
- *Benefits deriving from trade union status:* (i) section 38 of the LAS, under which the check-off of trade union dues is allowed only for associations with trade union status, and not for those that are merely registered; and (ii) sections 48 and 52 of the LAS, which give special protection (trade union immunity) only to representatives of organizations that have trade union status.

In its previous comments, the Committee noted the decisions of the Supreme Court of Justice and of other national and provincial courts which found unconstitutional various sections of the above legislation, particularly with regard to trade union status and protection. The Committee also noted that the Government had provided information on a number of legislative initiatives to reform the LAS.

The Committee notes that the observations of CTA Autonomous and CTA Workers reiterate the need to amend the LAS and allege that the Government has taken no action in this regard, despite the judicial decisions handed down. They emphasize that the Government has not held any tripartite roundtables and has not made any amendments to the legislation in force nor supported any of the bills that have been submitted to the National Congress on this matter by legislators from various groups, and they blame the Government for the absence of parliamentary debate.

On the other hand, the Committee notes the Government's indications that: (i) legislators from the governing party have presented the majority of the bills to amend the LAS; (ii) however, it has not been possible to move forward in this debate for some time, despite new political conditions; (iii) the situation is much more difficult for the current Government, which took office in 2015, as this delicate legislative reform requires parliamentary intervention and the Congress currently descends into conflict each time a social issue is debated, in which the methods used by some trade unions are accompanied by an attitude that violates and restricts governability; (iv) this political context does not provide the necessary conditions for social dialogue as defined by the ILO; (v) under these conditions, the efforts that could currently be taken by the Government to apply in practice the amendments proposed by the ILO would be ineffective; and (vi) the Government proposes the establishment of a tripartite committee to address the issues raised by the regular supervisory system of the ILO, including the amendments to the LAS, in so far as the social partners are prepared to participate in that committee and are committed to its outcomes.

While recalling that it has been requesting the Government for many years to take the necessary measures to bring the legislation into conformity with the Convention, the Committee firmly hopes that the tripartite committees envisaged by the Government will provide a suitable forum for social dialogue to examine the pending issues with the social partners. The Committee once again firmly urges the Government, immediately following this tripartite examination, to take the necessary measures to bring the LAS and its implementing Decree into full conformity with

the Convention and reminds the Government that it may avail itself of the technical assistance of the Office in this respect.

Article 3. Right of trade unions to elect their representatives in full freedom and to organize their administration and activities. In its previous comments, the Committee noted the allegations of the workers' organizations concerning interference by the Government in trade union elections and noted with concern that these allegations had been the subject of the recommendations of the Committee on Freedom of Association (in particular in Cases Nos 2865 and 2979). The Committee notes that, in their observations, the CGT RA and CTA Autonomous make new allegations of interference in elections and that these organizations, together with the ITUC allege the emergence of new forms of undue Government interference in trade union activities, alluding in particular to interventions in trade unions, including the appointment of external administrators, and to unjustified delays in the certification of trade union officials by the administrative authorities, which they allege prevent the affected workers' organizations from conducting their activities. The CGT RA and CTA Autonomous also refer to the publication of Provision No. 17-E/2017 by the National Directorate of Trade Union Associations, which orders the exclusion from the trade union register of organizations that have not confirmed their operational activity within three years, in compliance with the periodic legal requirements set out in the LAS. The CTA Autonomous alleges that this Provision confers immense discretionary power to sanction principal trade unions. The Committee also notes that the Government refers to these issues being dealt with by the proposed tripartite committees. ***Recalling the importance of ensuring non-interference by the administrative authorities in trade union elections, of avoiding undue delays in the accreditation of trade union officials, and of ending any other interference that undermines the right of trade unions to elect their representatives in full freedom and to organize their administration and activities, the Committee firmly hopes that the issues raised by the workers' organizations will be examined by the new tripartite committees, with a view to taking the necessary measures, and requests the Government to provide information on any developments in this respect.***

Administrative procedure to register a trade union or obtain trade union status. The Committee recalls that, in its previous comments, it requested the Government to take the necessary measures to avoid unjustified delays in the procedures to register a trade union or obtain trade union status. The Committee notes that the ITUC, CTA Workers and CTA Autonomous once again allege persistent delays and refusals by the administrative authorities to register trade unions and to grant trade union status (they cite numerous examples, highlighting that trade union status still has not been granted to the Federation of Energy Workers of the Argentine Republic (FeTERA) or CTA Workers, the initial requests for which were submitted 18 and 14 years ago, respectively). The Committee also notes the Government's indication that these issues could also be addressed by the proposed tripartite committees. ***Recalling that similar allegations of undue delays have been the subject of several cases before the Committee on Freedom of Association, which referred the legislative aspects of this issue to the Committee of Experts, the Committee is once again bound to urge the Government to take all the necessary measures, including those that may arise out of the above tripartite discussions, to avoid unjustified delays or refusals in the procedures for the registration of trade unions or the granting of trade union status, and to report on any progress made in this respect.***

Barbados

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1967)***

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

The Committee notes the comments made by the International Trade Union Confederation (ITUC) in a communication received on 31 August 2014. ***The Committee requests the Government to provide its comments in this respect.***

Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination. The Committee had previously requested the Government to take all the necessary measures to ensure that in addition to covering cases of anti-union dismissals, a new legislation on employment rights would provide for adequate protection against all other acts of anti-union discrimination envisaged by *Article 1* of the Convention, as well as for adequate and dissuasive sanctions aimed at ensuring respect for the right to organize. The Committee notes that the Government indicates in its report that the Employment Rights Act has been passed in Parliament and is now awaiting proclamation. The Committee notes, however, that the Act covers only cases of anti-union dismissals (section 27) and further limits this protection to employees continuously employed for a period of over one year. The Committee recalls that adequate protection against acts of anti-union discrimination should not be confined to penalizing dismissal on anti-union grounds, but should cover all acts of anti-union discrimination (demotions, transfers and other prejudicial acts) at all stages of the employment relationship, regardless of the employment period, including at the recruitment stage. ***The Committee reiterates its previous comments and requests the Government to amend the new Act in line with the above. It requests the Government to provide information on all measures taken or envisaged in this regard.***

The Committee further notes that while sections 33–37 of the Act provide for the possibility of reinstatement, re-engagement and compensation, the maximum amount of compensation awarded to workers who have been employed for less than two years is five-weeks wages, which, depending on the number of years of continuous employment, is increased by between two-and-a-half and three-and-a-half weeks wages for each year of that period (Fifth Schedule). The Committee considers that the prescribed amounts do not represent sufficiently dissuasive sanctions for anti-union dismissal. ***It therefore requests the Government to take the necessary measures to amend the Fifth Schedule of the Act so as to bring the compensation amount to an adequate level, which would constitute a sufficiently dissuasive sanction for anti-union dismissals.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Belize

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1983)

Article 3 of the Convention. Compulsory arbitration. The Committee recalls that in its previous comments it had requested the Government to amend the Settlement of Disputes in Essential Services Act 1939 (SDESA), as amended on several occasions, which empowers the authorities to refer a collective dispute to compulsory arbitration, to prohibit a strike or to terminate a strike in services that cannot be considered essential in the strict sense of the term, including the banking sector, civil aviation, port authority, postal services, social security scheme and the petroleum sector. The Committee notes with **regret** from the information provided by the Government that while the Schedule to the SDESA was amended twice in 2015, the long-standing comments of the Committee were not addressed. Instead, the two amendments expanded the field of application of the SDESA and added to its Schedule the “port services involving the loading or unloading of a ship’s cargo”, which are also services that do not constitute essential services in the strict sense of the term – that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population. **The Committee requests the Government to amend the Schedule to the SDESA so as to permit compulsory arbitration or a prohibition on strikes only in services that are essential in the strict sense of the term, and to provide information on all progress made in this regard.**

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1983)

The Committee had noted the observations of the International Trade Union Confederation (ITUC) in 2014. *The Committee notes with regret that the Government has not yet replied to these observations and requests it once again to provide its comments in this respect.*

Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination. In its previous comments, following the 2011 ITUC observations regarding those two sectors, the Committee had requested the Government to provide statistics on the number of acts of anti-union discrimination that are reported to the authorities in the banana plantation sector and in export processing zones and on the outcomes of the denunciations in this respect. The Committee notes that the Government indicates that during the reporting period (July 2013 to June 2017) no acts of anti-union discrimination were denounced to the authorities in these sectors. **Highlighting that the absence of anti-union discrimination complaints may be due to reasons other than an absence of anti-union discrimination acts, and recalling the specific allegations raised by the ITUC, the Committee requests the Government to take the necessary measures to ensure that, on the one hand the competent authorities take fully into account in their control and prevention activities the issue of anti-union discrimination, and that on the other hand, the workers in the country are fully informed of their rights regarding this issue. The Committee requests the Government to provide information on measures taken in this regard, as well as any statistics concerning the anti-union discrimination acts reported to the authorities.**

Article 4. Promotion of collective bargaining. In its previous comments, the Committee had requested the Government to take measures to amend section 27(2) of the Trade Unions and Employers’ Organizations (Registration, Recognition and Status) Act (TUEOA), which provides that a trade union may be certified as the bargaining agent if it is supported by at least 51 per cent of employees, as this requirement of an absolute majority may give rise to problems given that, if this percentage is not attained, the majority union would be denied the possibility of bargaining. In its latest comment, the Committee noted the Government’s indication that: (i) the Tripartite Body and the Labour Advisory Board had engaged in discussions on a possible amendment to the Act; and (ii) based on these consultations, it had been recommended to reduce to 20 per cent the trade union membership threshold required to trigger a poll, while retaining the requirement of a 51 per cent approval of those employees voting and to require a turnout at the poll of at least 40 per cent of the bargaining unit. The Committee notes that the Government indicates that section 27(2) of the TUEOA has not been amended but that discussion continues among the social partners in this regard. **The Committee requests the Government to continue promoting social dialogue in order to bring section 27(2) of the TUEOA into conformity with the Convention and to provide information on any developments in this respect. The Committee reminds the Government that it may avail itself of technical assistance from the Office.**

Promotion of collective bargaining in practice. **The Committee requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements.**

Botswana

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1997)

The Committee takes due note of the comments provided by the Government in response to the 2017 observations of the International Trade Union Confederation (ITUC) alleging dismissals of workers because of strike action, brutal repression by police of a peaceful picket organized in August 2016. The Committee notes with *regret* that the Government provides no reply to the remaining observations made by: (i) the ITUC in 2014 (alleging violations of trade union rights in practice); (ii) the Trainers and Allied Workers Union (TAWU) in 2013 (alleging favouritism of certain trade unions by the Government); and (iii) the ITUC in 2013 (alleging acts of intimidation against public workers participating in demonstrations). *The Committee therefore reiterates its request and expects that the Government will respond to these observations.*

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee takes note of the discussion that took place in the Committee on the Application of Standards of the International Labour Conference (hereafter the Conference Committee) in June 2018. It notes the Government's statement during that discussion that, since the 2017 Conference Committee discussion, consultations have been ongoing between the Government and the representatives of employers and workers on the process to amend labour laws. In particular, the Government and social partners met seven times between July 2017 and April 2018, and meaningful progress was made in October 2017 when a tripartite time-bound action plan was adopted and presented to the ILO Decent Work Team for Eastern and Southern Africa. There was also general consensus on the need to review the labour laws to fill the gaps, incorporate various court decisions and make the legislation compliant with the ratified ILO Conventions. While it had previously been resolved that the focus of the review would be on the Employment Act and the Trade Unions and Employers Organisations (TUEO) Act, it was then agreed that the review could be extended to include such other laws as the Public Service Act (PSA) and the Trade Disputes Act (TDA), so as to ensure harmonization and consistency. In order to carry out the review, the Government and social partners agreed to establish a Labour Law Review Committee (LLRC) consisting of members from the Government, employers and workers, the purpose of which was to spearhead the labour law review process.

The Conference Committee welcomed the Government's agreement to broaden the scope of the labour law review and called upon the Government to: (i) take appropriate measures in consultation with the most representative employers' and workers' organizations to ensure that the labour and employment legislation grants members of the prison service that are not considered to be a part of the police, the rights guaranteed by the Convention; (ii) amend the TUEO Act, in consultation with employers' and workers' organizations, to bring it into conformity with the Convention; (iii) provide further information on the Court of Appeal ruling on the invalidity of statutory provisions; (iv) ensure that the registration of trade unions in law and in practice conforms with the Convention; and (v) process pending applications for the registration of trade unions, in particular in the public sector, which have met the requirements set out by law. The Conference Committee called upon the Government to address these recommendations within the framework of the ongoing labour law review and in full consultation with the social partners.

The Committee takes note of the observations of the Botswana Federation of Trade Unions (BFTU) received on 1 September 2018 reporting on the progress of implementation of the Conference Committee conclusions. It further notes from the Government's report that the work by the LLRC is ongoing and that, with the collaboration of the Office, an expert was engaged to facilitate the process. The expert, accompanied by the Director of the ILO Decent Work Team for Eastern and Southern Africa, held a meeting with the LLRC on 21 August 2018. The meeting provided a platform for sharing of expectations by the tripartite partners. Generally, the Government and social partners expressed the need for the expert to assist with the overhaul and modernization of the labour laws. The Committee further notes that, in its observations, the BFTU welcomed the commitments and undertakings made by the Government, as well as the latter's agreement to broaden the scope of the labour law review. *The Committee welcomes the tripartite initiatives undertaken in the process of the labour law review and, expressing the firm hope that its previous comments will be taken into consideration in the framework of this review, requests the Government to provide information on the progress achieved.*

Article 2 of the Convention. Right to organize of prison staff. In its previous comments, the Committee requested the Government to take the necessary legislative measures to ensure that prison officers enjoy the right to establish and join trade unions. While noting the classification at national level of the prison service as "disciplined force" and that the constitutionality of the exclusion of prison officers from the coverage of the TDA and the TUEO Act was reaffirmed by the Court of Appeal, the Committee reiterated that the police, the armed forces and the prison service were governed by separate legislation, which did not provide members of the prison service with the same status as the armed forces or the police, and emphasized that the exception set out in *Article 9* of the Convention for the armed forces and the police was to be interpreted restrictively. The Committee notes the Government's indication that legislation still bars prison staff from unionization, and that the extent to which this matter will be taken on board in the framework of the ongoing review of

labour laws is not yet known. ***The Committee urges the Government to take the necessary legislative measures to ensure that prison officers enjoy the right to establish and join trade unions. The Committee requests the Government to continue providing information on the progress made in this regard within the framework of the ongoing labour law review.***

Article 3. Right of workers' organizations to organize their activities and formulate their programmes. In its previous comments, the Committee noted with concern that section 46 of the TDA enumerated a broad list of essential services, and that in line with its section 46(2), the Minister may declare any other service as essential if its interruption for at least seven days endangers the life, safety or health of the whole or part of the population or harms the economy. The Committee recalled that essential services, in which the right to strike may be restricted or even prohibited, as is the case in Botswana, should be limited to those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, and highlighted that, while the economic impact of industrial action and its effect on trade and commerce may be regrettable, such consequences in and of themselves do not render a service "essential". The Committee therefore considered that certain services enumerated in section 46, including diamond sorting, cutting and selling services; teaching services; government broadcasting services; the Bank of Botswana; railways operation and maintenance services; public veterinary services; and services necessary to the operation of any of these services, do not constitute essential services in the strict sense of the term. The Committee notes the Government's statement before the Conference Committee that, during its engagement with the social partners, it had become clear that the amendment of the TDA, in particular the review of the list of essential services, was of critical importance to workers and that it had therefore deemed it necessary to re-examine the list of essential services. As such, the TDA would form part of the laws that would be reviewed. In its report, the Government indicates that, in the process of amending the TDA, a task team has been formed to review the list of essential services under section 46. ***Referring to the Conference Committee's request to ensure that the TDA is in full conformity with the Convention, the Committee expects that the necessary legislative measures will be taken in the framework of the ongoing labour law review process to ensure that the list in section 46(1) of the TDA is limited to essential services in the strict sense of the term.***

The Committee previously requested the Government to provide information on the progress made in relation to the amendment of section 48B(1) of the TUEO Act, which grants certain facilities (such as access to premises or representation of members in case of complaint, etc.) only to unions representing at least one third of the employees in the enterprise, and section 43 of the TUEO Act which provides for inspection of accounts, books and documents of a trade union by the Registrar at "any reasonable time". The Committee notes the Government's indication that it hopes that the abovementioned sections will be considered during the review of the TUEO Act. ***Referring to the Conference Committee conclusions, the Committee urges the Government to take measures to ensure that, in the framework of the ongoing labour law reform, the abovementioned provisions of the TUEO Act are amended, in full and frank consultation with the social partners, so as to bring these provisions into line with the Convention. The Committee requests the Government to continue providing information on any progress achieved in this regard and to provide a copy of the amended TUEO Act once adopted.***

The Committee further noted that, following considerable consultation with public service unions, the new Public Service Bill was at the stage of publication in the *Official Gazette*, which would allow for further consultation and could result in further amendments prior to its consideration in Parliament. It noted, however, the ITUC's 2017 observation regarding the refusal to allow the Botswana Federation of Public Sector Unions (BOFEPUSU) to raise its concerns before Parliament as regards the proposed amendments affecting the public sector. The Committee emphasized the value of prior detailed consultation with the relevant social partners (including BOFEPUSU) during the preparation of legislation affecting their interests. In this regard, the Committee notes that both the Government in its report and the BFTU in its observations indicated that the tripartite labour law review process – spearheaded by the LLRC, which is made up of representatives of the Government, employers and workers, including from the BOFEPUSU – was extended to include the Public Service Act No. 30 of 2008 (the Public Service Bill having, of yet, not been promulgated into law). ***Welcoming the consultative and tripartite nature of the labour law review, the Committee requests the Government to provide information on the progress made in the review of the Public Service Act and to provide a copy of the amended Act, once adopted.***

The Committee reminds the Government that it may continue to avail itself of technical assistance from the Office with respect to all issues raised in its present comments.

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1997)

The Committee notes the Government's comments on the observations made in 2017 by the International Trade Union Confederation (ITUC) concerning alleged cases of anti-union discrimination and obstruction to collective bargaining. However, the Committee notes with ***regret*** that the Government provides no reply to the remaining observations made by the Trainers and Allied Workers Union (TAWU) alleging violations of the right to collective bargaining in practice.

The Committee takes note of the initiatives taken in the framework of the labour law review and in particular observes from the Government that the Public Service Act of 2008, the Trade Disputes Act (TDA) of 2016 and the Trade Unions and Employers Organisation Act (TUEO) have to be harmonized during the ongoing labour law review process. ***The Committee expresses the hope that its comments below will be taken into account in the framework of the review to ensure the full conformity of these Acts with the Convention and that it will be in a position to note progress in the near future. The Committee requests the Government to provide any information on the progress achieved.***

Scope of the Convention. Prison officers. On several occasions, the Committee, considering that the prison service cannot be considered to be part of the armed forces or the police for the purposes of exclusion under *Article 5* of the Convention, had requested the Government to take the necessary measures, including the pertinent legislative amendments, to grant members of the prison service all rights guaranteed by the Convention. ***Noting from the Government that this issue is going to be considered during the ongoing labour law review, the Committee requests the Government to continue providing information on the progress made in this respect.***

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. On several occasions, the Committee requested the Government to take the necessary measures to ensure that all union committee members, including those of unregistered trade unions, enjoy an adequate protection against anti-union discrimination. The Committee ***regrets*** that the Government once again failed to provide any comments on this point and recalls that the fundamental rights accorded by the Convention to members or officers of trade unions, such as protection against acts of anti-union discrimination, cover all workers who wish to establish or join a trade union; therefore such protection should not be dependent on the registered or unregistered status of a trade union, even if the authorities consider registration to be a simple formality. ***In these circumstances, the Committee reiterates once again its previous request.***

Articles 2 and 4. Adequate protection against acts of interference. Promotion of collective bargaining. In its previous comments, the Committee had requested the Government to provide information on the progress made in respect to: (i) the adoption of specific legislative provisions ensuring adequate protection against acts of interference by employers coupled with effective and sufficiently dissuasive sanctions; (ii) the repeal of section 35(1)(b) of the TDA, which permits an employer or employers' organization to apply to the commissioner to withdraw the recognition granted to a trade union on the grounds that the trade union refuses to negotiate in good faith with the employer; and (iii) the amendment of section 20(3) of the TDA (this section read together with section 18(1)(a) and (e) allows the Industrial Court to refer a trade dispute to arbitration, including where only one of the parties made an urgent appeal to the Court for determination of the dispute) so as to ensure that the recourse to compulsory arbitration does not affect the promotion of collective bargaining. In this regard, the Committee recalls that compulsory arbitration is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), or in essential services in the strict sense of the term or in cases of acute national crisis. ***Noting the Government's indication that these matters should be considered during the ongoing labour law review and that the technical assistance has already been sought for this purpose, the Committee expects that the necessary legislative measures will be taken, so as to bring these provisions into line with the Convention.***

Threshold of representativity. The Committee had previously noted that, in terms of section 48 of the TUEO Act, as read with section 32 of the TDA, the minimum threshold for a union to be recognized by the employer for collective bargaining purposes is set at one third of the relevant workforce. The Committee had recalled that the determination of the threshold of representativity to designate an exclusive agent for the purpose of negotiating collective agreements which are destined to be applied to all workers in a sector or establishment is compatible with the Convention, in so far as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice. ***Noting the Government's indication that these matters should be considered during the ongoing labour law review, the Committee expects that the above-mentioned provisions will be amended to ensure that if no union reaches the required threshold to be recognized as a bargaining agent, unions should be given the possibility to negotiate, jointly or separately, at least on behalf of their own members.***

Articles 4 and 6. Collective bargaining in the public sector. In its previous comments, the Committee requested the Government to specify which provisions of the Public Service Regulations, 2011, are not open for negotiation and invited the Government to reconsider the limitation imposed on the scope of collective bargaining for public sector workers not engaged in the administration of the State. The Committee notes from the Government that the provisions of the Public Service Regulations constitute minimal legislative protective clauses on the basis of which the parties are able to negotiate better and/or additional benefits, and that they should be read with the TUEO which also applies to the public sector. In addition, the Committee notes from the Government that the amendment of the Public Service Act, 2008, though it was at an advanced stage and ready for tabling before the Parliament, has been included in the labour law review mechanism. ***While taking due note of the Government's statement, the Committee expects that the ongoing labour review process will ensure that the provisions defining the scope of collective bargaining for public sector workers not engaged in the administration of the State will fully comply with the Convention.***

Article 4. Collective bargaining in practice. ***The Committee requests the Government to provide information on the number of collective agreements signed and in force in the country, indicating the sectors and the number of workers covered.***

The Committee reminds the Government that it may continue to avail itself of technical assistance from the Office with respect to all issues raised in its present comments.

Brazil

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1952)***

The Committee notes the observations of: (i) the National Association of Labour Court Judges (ANAMATRA), received on 1 June 2018; (ii) the International Trade Union Confederation (ITUC), received on 1 September 2018; and (iii) the Single Confederation of Workers (CUT), communicated jointly with the ITUC and also received on 1 September 2018. The Committee notes that these observations, presented both in relation to the present Convention and the Collective Bargaining Convention, 1981 (No. 154), concern aspects of Act No. 13467 on collective bargaining.

The Committee also notes the joint observations of the International Organisation of Employers (IOE) and the National Confederation of Industry (CNI), received on 1 September 2018, which also relate to aspects of Act No. 13467 on collective bargaining examined by the Committee in its previous comment.

Follow-up to the conclusions of the Committee on the Application of Standards ***(International Labour Conference, 107th Session, May–June 2018)***

The Committee notes the discussions in the Committee on the Application of Standards of the Conference (hereinafter, the Conference Committee) in June 2018 on the application of the Convention by Brazil. The Committee notes in particular that the Conference Committee, taking into account the fact that the Committee of Experts examined this case outside the regular reporting cycle, considering the Government's oral submissions to the Conference Committee regarding the labour law reform and its compliance with its obligations under the Convention, and the discussion that followed, recommended the Government to: (i) provide information and analysis on the application of the principles of free and voluntary collective bargaining in the new labour law reform; and (ii) provide information on the tripartite consultations with the social partners regarding the labour law reform.

Article 4 of the Convention. Promotion of collective bargaining. Adoption of Act No. 13467. The Committee notes the Government's indications concerning the early examination of the application of the Convention by the Committee in 2017. The Committee notes the Government's view that: (i) the mandate of the Committee of Experts is to examine the application of ILO Conventions by member States in law and practice taking into account the different national situations and legal systems; (ii) in this respect, as mentioned during the discussion in the Conference Committee, the Government would have preferred the examination of the Convention to be undertaken during the regular reporting cycle so that sufficient time had elapsed to assess the application of the Act in practice. The Committee emphasizes in this regard that in 2017, after having received observations from both trade unions and employers' organizations on the labour law reform process and noted the indications by the trade unions that the adoption of Act No. 13467 was likely to have a significant effect on the exercise of the fundamental right to collective bargaining, it considered it appropriate, in accordance with the criteria that it has established in this respect, to undertake an early examination of the application of the Convention by Brazil.

Relationship between collective bargaining and the law. In its previous comment, the Committee observed that, in accordance with Act No. 13467 adopted on 13 November 2017, new section 611-A of the Consolidation of Labour Laws (CLT) introduced the general principle that collective agreements and accords prevail over the legislation, and it is therefore possible through collective bargaining to derogate from the protective provisions of the legislation, with the sole limit of the constitutional rights referred to in section 611-B of the CLT. Considering that this principle is contrary to the objective of promoting free and voluntary collective bargaining, the Committee requested the Government to examine, following consultation with the social partners, the revision of sections 611-A and 611-B in order to bring them into conformity with *Article 4* of the Convention.

In this respect, the Committee notes firstly the observations of the national and international trade unions concerning the scope and impact of the principle set out in section 611-A of the CLT. The Committee notes in particular that the trade unions allege, on the basis, among other sources, of a report of the Public Ministry of Labour of Brazil (*Ministério Público do Trabalho*) that the possibility of setting aside the protective provisions of the legislation through collective agreements and accords are particularly broad and significant as: (i) the list of subjects that can be set aside established in section 611-A of the CLT is described as non-exhaustive; (ii) section 611-A explicitly provides that the absence of a compensatory measure for setting aside a legal protection is not a reason for annulling the clause in the agreement; (iii) the derogations made possible by section 611-A may be the product of enterprise accords which, under the terms of section 620 of the CLT, prevail over collective agreements covering a broader area; (iv) the subjects explicitly defined in section 611-A from which it is possible to derogate include the basic elements of worker protection, such as working time and rest periods, including the regulation of work and its duration in an unhealthy environment; (v) in violation of the basic principles of international labour law, sections 611-A and 611-B of the CLT provide that issues relating to hours of work and rest periods shall not be considered as being a matter of occupational safety and health; (vi) the possibility to set aside legal provisions governing the system of remuneration based on labour productivity may have dangerous consequences on hours of work and the health of workers; and (vii) compliance with the international labour Conventions ratified by Brazil is not indicated as constituting a limit to the possibilities of setting aside the provisions of the labour legislation through collective bargaining, which places in particular danger the application of the ILO Hours of Work (Industry) Convention,

1919 (No. 1), the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), and the Occupational Safety and Health Convention, 1981 (No. 155).

Secondly, the Committee notes the assertion by the trade unions that the possibility of setting aside the protective provisions of the legislation creates the conditions for downward competition between employers in relation to terms and conditions of work and employment, which will inhibit the practice of collective bargaining as an instrument for improving conditions of work. The Committee also notes that the report of the Public Ministry of Labour attached by the CUT indicates that, in the specific context of collective labour relations in Brazil, the principle set out in section 611-A of the CLT is likely to result in trade unions being subject to threats and pressure to accept derogations from the legislation and to authorize all trade unions, irrespective of their level of representativity, to negotiate below the level of legal protection, which could act as an incentive for corruption in collective labour relations. Finally, the Committee notes the assertion by the trade unions that the first statistics available confirm the fears expressed previously on the harmful effects of the establishment of the primacy of collective agreements and accords over the legislation. The Committee notes in this regard the various studies provided by the trade union organizations indicating that the number of collective agreements and accords concluded during the first half of 2018 is between 30 and 45 per cent lower than the first half of 2017.

The Committee also notes the observations of the employers' organizations, which indicate that: (i) the principle of free and voluntary collective bargaining is fully guaranteed by the Constitution of Brazil, which also provides in article 7 for cases in which it is possible, through collective bargaining, for the flexible application of certain rights; (ii) the recognition of the primacy of collective bargaining over the legislation was necessary in a context characterized up to now by the excessive interventionism of the judicial authorities in accords concluded by the social partners; (iii) the primacy of bargaining over the law will therefore offer greater legal security to the social partners, which will allow the promotion of collective bargaining; (iv) the primacy of collective bargaining over the law is however far from being absolute, as section 611-B of the CLT establishes a long list of rights that cannot be set aside, such as normal hours of work in the day (eight hours) and the week (44 hours) and 50 per cent additional remuneration for overtime hours; and (v) collective bargaining remains entirely free and voluntary, as the unions can easily decide not to sign an accord containing derogations from the legislation.

Finally, the Committee notes the Government's comments concerning, firstly, the content and scope of sections 611-A and 611-B of the CLT. The Government considers in this respect that: (i) the reform reinforces the role and value of collective bargaining by increasing its material scope of intervention, which is in full conformity with the objectives of ILO Conventions on this subject; (ii) the primacy recognized for collective agreements and accords over the law reinforces the legal security of collective bargaining, which is indispensable in light of the traditional interference of the judicial authorities of Brazil in this respect and makes it possible to render excessively detailed labour legislation more flexible; (iii) the reform also ensures the protection of the many rights set out in section 611-B of the CLT; (iv) the possibility to set aside individual legislative provisions does not mean that the collective agreement or accord is not more favourable to workers as a whole; (v) the view of the Supreme Federal Court, which in a recent ruling recognized the primacy of collective bargaining on condition that a "minimum floor of civilization" remains guaranteed by the law, is accordingly set out in the legislation; (vi) the recognition of the primacy of negotiation over the legislation is in accordance with the proposal made by a metallurgical union in 2011; and (vii) section 611-A does not in any event compel trade unions to conclude accords which set aside protective legal provisions, as the social partners can choose to continue to be governed, when that is in the interests of the parties, by the provisions of the legislation. The Committee also notes the Government's views on the meaning and scope of the Convention in relation to collective bargaining. In this regard, the Committee notes the Government's indication that: (i) nothing in *Article 4* of the Convention establishes a link between the respective content of collective agreements and the legislation, as the sole purpose of the Convention is to promote collective bargaining; (ii) the same applies to *Article 2* of Convention No. 154, which sets out the purpose of collective bargaining, with the sole purpose being once again to achieve its broader application; (iii) it is not legally well-founded to refer to the preparatory work of Convention No. 154 for the interpretation of Convention No. 98; and (iv) there is in any case no justification for referring to the preparatory work in the case of *Article 4* of the Convention since, under the terms of *Article 32* of the Vienna Convention on the Law of Treaties, recourse to the preparatory work is only a supplementary means of interpretation which may be used either to confirm the results of the general rules of interpretation, or when the latter leave the meaning ambiguous, obscure or manifestly unreasonable, which is not the case in the present instance.

The Committee takes due note of the information provided by the employers' and workers' organizations and by the Government concerning sections 611-A and 611-B of the CLT, and particularly on the links between these provisions and the obligations deriving from the Convention, the scope of the derogations to the legislation through collective bargaining made possible by section 611-A and on the limits established in this respect by section 611-B. The Committee notes that, based on this information: (i) the possibility of setting aside the protective provisions of the legislation through collective bargaining is not absolute, as section 611-B establishes a limitative list setting out 30 rights (including, for example, the minimum wage, normal hours of work per day (eight hours) and per week (44 hours) and the percentage of additional remuneration for overtime hours), based on the provisions of the Constitution of Brazil, which cannot be set aside through collective agreements or accords; (ii) the possibilities for derogation from the legislation opened up by section 611-A are however very extensive in so far as, on the one hand, the 14 points explicitly mentioned in this section cover numerous

aspects of the employment relationship and, on the other hand, this list, in contrast with the wording of section 611-B, is solely indicative (“inter alia”). In the light of these elements, the Committee observes that, even though it is limited by a significant number of exceptions, the possibility to set aside protective legislative provisions through collective bargaining, established as a general principle by section 611-A of the CLT, remains particularly broad. Emphasizing that *Article 4* of the Convention, in the same way as Conventions Nos 151 and 154, which have also been ratified by Brazil, have the general objective of promoting collective bargaining as a means of reaching agreement on more favourable terms and conditions of work than those envisaged in the legislation, the Committee recalls that it considers that the introduction of a general possibility of derogating through collective bargaining the protection established for workers in the legislation would in practice have a strong dissuasive effect on the exercise of the right to collective bargaining and could contribute to undermining its legitimacy in the long term. In the present case, the Committee considers that the extent of the derogations allowed by section 611-A of the CLT, which can be made by a sectoral collective agreement, as well as by an agreement at the company level, may affect the purpose and attractiveness of collective bargaining in the country, or at the very least to significantly modify its perception by the actors concerned and accordingly compromise its promotion and exercise. In this regard, the Committee notes with **concern** the data contained in the surveys provided by the trade union organizations concerning a significant decline in the number of collective agreements and accords concluded in the country since the entry into force of the reform of the legislation in November 2017. The Committee notes the Government’s indication in this respect that the trade unions are continuing to negotiate and sign collective agreements and accords.

In light of the above, the Committee recalls that while targeted legislative provisions covering specific aspects of conditions of work and providing, in a circumscribed and reasoned manner, for the possibility of their replacement by means of collective bargaining may be compatible with the Convention, a legal provision providing for a general possibility to derogate from labour legislation by means of collective bargaining would be contrary to the purpose of promoting free and voluntary collective bargaining established in Article 4 of the Convention. While emphasizing the importance of obtaining, in so far as possible, tripartite agreement on the basic rules of collective bargaining, the Committee requests therefore the Government to take the necessary measures, in consultation with the representative social partners, for the revision of sections 611-A and 611-B of the CLT so as to specify more precisely the situations in which clauses derogating from the legislation may be negotiated, as well as the scope of such clauses. The Committee requests the Government to provide information on any progress in this regard. It also requests the Government to communicate detailed information on the number of collective agreements and accords signed in the country, as well as on the number, content and scope of the clauses derogating from the legislation included in those accords and agreements.

Relationship between collective bargaining and individual contracts of employment. In its previous comments, the Committee noted that, under the terms of new section 444 of the CLT, workers who have a higher education diploma and receive a wage that is at least two times higher than the ceiling for benefits under the general social security scheme (currently around 11,000 Brazilian reais (BRL), or approximately US\$3,390) will be able to derogate from the provisions of the legislation and collective agreements in their individual contracts of employment. The Committee recalled that legislative provisions which allow individual contracts of employment to contain clauses contrary to those contained in the applicable collective agreements (although it is always possible for individual contracts of employment to contain clauses that are more favourable to workers) are not compatible with the obligation to promote collective bargaining set out in *Article 4* of the Convention. The Committee accordingly requested the Government to examine, after consulting the social partners, the revision of this provision so as to bring it into compliance with *Article 4* of the Convention.

The Committee notes that, with reference to section 444 of the CLT, the Government indicates that: (i) this provision concerns a very small proportion of workers (around 2 per cent of the active population) who enjoy sufficient autonomy to defend their rights adequately through individual negotiation; (ii) the content of collective agreements is generally of little use to this category of employees as their situation is not generally covered by collective bargaining; (iii) the workers covered by section 444 of the CLT continue to benefit from the guarantee of the fundamental rights enumerated in section 611-B of the CLT; and (iv) nothing in *Article 4* of the Convention prohibits individual contracts of employment from derogating from the content of collective labour agreements. The Committee recalls in this respect that the obligation to promote collective bargaining set out in *Article 4* of the Convention requires that the individual negotiations of the terms of the contract of employment cannot derogate the collective agreements applicable to the employer, on the understanding that contracts of employment can always set out more favourable terms and conditions of work and employment. The Committee recalls that this principle is explicitly set out in the Collective Agreements Recommendation, 1951 (No. 91). ***While emphasizing that the collective bargaining machinery can take into account the specific needs and interests of different categories of workers who may, if they so wish, be represented by their own organizations, the Committee recalls that the present Convention is fully applicable to the workers covered by section 444 of the CLT in so far as, under the terms of Articles 5 and 6, only the armed forces and the police (Article 5) and public servants engaged in the administration of the State (Article 6) may be excluded from the scope of application of the Convention. The Committee therefore once again requests the Government, after consultation with the representative social partners concerned, to take the necessary measures to ensure the conformity of section 444 of the CLT with the Convention. The Committee requests the Government to provide information on any progress achieved in this respect.***

Scope of application of the Convention. Autonomous and self-employed workers. In its previous comments, the Committee requested the Government to provide its comments on the allegations of the trade union organizations that the extension of the definition of self-employed workers as a result of new section 442-B of the CLT would have the effect of excluding a significant category of workers from the rights set out in the Convention. The Committee notes in this regard the Government's indication that: (i) the Convention, even though it does not contain a definition of the concept of worker, is not by definition applicable to autonomous workers, as collective bargaining is unsuited to the occasional and independent nature of their activities; and (ii) section 442-B of the CLT has the sole aim of clarifying the criteria already existing in Brazilian legislation in relation to the definition of autonomous workers. The Committee recalls that *Article 4* of the Convention establishes the principle of free and voluntary collective bargaining and the independence of the parties to negotiation for all workers and all employers covered by the Convention. With reference to self-employed workers, the Committee recalls that, in its 2012 General Survey on the fundamental Conventions, paragraph 209, it emphasized that the right to collective bargaining should also cover organizations representing self-employed workers. At the same time, the Committee is aware of the fact that the collective bargaining procedures applied in traditional labour relationships may not be adapted to the circumstances and specific conditions of the activities undertaken by self-employed workers. ***The Committee therefore invites the Government to hold consultations with all the parties concerned with a view to ensuring that all workers, including autonomous and self-employed workers, are authorized to participate in free and voluntary collective bargaining. Considering that such consultations are appropriate to enable the Government and the social partners concerned to identify the appropriate adaptations to be introduced into collective bargaining procedures to facilitate their application to autonomous and self-employed workers, the Committee requests the Government to provide information on the progress achieved in this regard.***

Relationship between the various levels of collective bargaining. The Committee notes the indications of the ITUC relating to section 620 of the CLT, as amended by Act No. 13467. The Committee notes that, in accordance with this provision, the conditions established in collective labour accords (which are concluded under the Brazilian legislation at the level of one or more enterprises) always prevail over those contained in collective labour agreements (which are concluded under the Brazilian legislation at a broader level, such as a sector of activity or an occupation). The Committee observes that, as a result of this provision, more favourable clauses negotiated at the level of the sector of activity or occupation will in all cases be replaced by less protective clauses negotiated at the enterprise level. ***Recalling that, in accordance with Article 4 of the Convention, collective bargaining must be promoted at all levels and that, in accordance with the general principles set out in Paragraph 3(1) of Recommendation No. 91, collective agreements should bind the signatories thereto and those on whose behalf the agreement is concluded, the Committee requests the Government to: (i) indicate the manner in which respect for the commitments made by the social partners in the framework of agreements concluded at the level of the sector of activity or occupation are guaranteed; and (ii) provide information on the impact of section 620 of the CLT on recourse to the negotiation of collective agreements and collective accords, and on the overall coverage rate of collective bargaining in the country.***

Consultations prior to the adoption of Act No. 13467. The Committee notes the detailed information provided in this regard by the Government and the social partners and observes the difference of views of, on the one hand, the trade union organizations and, on the other, employers' organizations and the Government. While taking due note of the intense discussions that were held, with the participation of trade unions and employers' organizations, in the two chambers of the Parliament, the Committee does not have information indicating that the Parliamentary discussion was preceded by a structured process of tripartite social dialogue intended to develop agreement on the content of the reform. ***In light of the necessity to ensure conformity of this reform with the Convention on various matters, the Committee invites the Government to engage in broad dialogue with the representative organizations of employers and workers in order to ensure that, in so far as possible, the reforms to be made to the legislation respecting collective bargaining are the subject of consensus with the social partners. Recalling that the Government can avail itself of ILO technical assistance, the Committee requests the Government to provide information on any developments in this respect.***

2016 observation. In its previous comment, the Committee also requested the Government to provide detailed replies to the other points contained in its 2016 observation relating to: (i) adequate protection against anti-union discrimination; (ii) compulsory arbitration in the context of the requirement to promote free and voluntary collective bargaining; (iii) the right to collective bargaining in the public sector; and (iv) the subjection of collective agreements to financial and economic policy. ***The Committee once again requests the Government to reply to these comments, and in particular to indicate for each of them the possible impact of the 2017 reform of the labour legislation.***

The Committee is raising other matters in a request addressed directly to the Government.

Cameroon

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

Application of the Convention in practice. With reference to the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, regarding in particular cases of interference by the authorities in the elections of the Fako Agricultural Workers' Union (FAWU), and in the construction and health sectors, acts of

vandalism on the premises of the Union of Agricultural Workers in Fako (DISAWOFA), anti-union harassment against members of a financial workers' union (FESYLTEFCAM) in the banking sector, and repeated police violence against strikers in the construction industry, the Committee notes with *regret* that the Government has not provided the detailed information requested.

Furthermore, no specific reply has been provided regarding the observations received on 6 September 2016 from Education International and its members from the education trade unions platform, according to which eight public sector teachers' unions are still not legally recognized despite the procedures they had followed to obtain accreditation from the competent authorities. The Government has confined itself to indicating that the delay in the registration of trade unions does not only affect teachers' unions, and that it is linked to the fact that the post of registrar had not been filled. ***Reiterating its concern regarding the allegations received, the Committee once again urges the Government to provide detailed comments on all of the issues raised.***

The Committee also notes the observations of the International Transport Workers' Federation (ITF), received on 4 September 2018, on the violent intervention by the police to suppress a strike movement initiated by dockworkers in the port of Douala on 22 June 2018, the arbitrary arrest of 32 dockworkers that followed, and the delay by the public authorities in carrying out an independent investigation. ***Noting with concern these new allegations of acts of violence by the police against strikers, the Committee urges the Government to provide comments and detailed information in this regard.***

Legislative issues. Act on the suppression of terrorism. The Committee recalls that, at its session in November 2016, the Committee on Freedom of Association made recommendations on the application of the Act on the suppression of terrorism (No. 2014/028 of 23 December 2014) and referred the case to the Committee of Experts for examination of the Act's conformity with the provisions of the Convention (see Case No. 3134, 380th Report). In this regard, the Committee wishes to draw the Government's attention once again to the following point: under section 2 of the Act, "the death penalty shall be imposed on anyone who ... commits or threatens to commit any act that may cause death, endanger physical safety, result in bodily injury or property damage or harm natural resources, the environment or the cultural heritage with the intention of: 1(a) intimidating the public, causing a situation of terror or forcing a victim, the Government and/or a national or international organization to carry out or refrain from carrying out a given act, adopting or renouncing a particular position or act according to certain principles; 2(b) disrupting the normal operation of public services or the delivery of essential public services, or creating a public crisis". The Committee reiterates its *deep concern* regarding the fact that some of these situations could apply to acts related to the legitimate exercise of activities by trade unions or employers' representatives in accordance with the Convention. The Committee refers in particular to protests, demonstrations and strikes that would have direct repercussions for public services. The Committee also recalls that, in light of the penalty that may be imposed, such a provision could be particularly intimidating for trade union or employers' representatives who speak out or take action within the context of their duties. ***While noting the Government's indication that the Committee's concerns will be taken into account in the application of the Act and that the legislation only addresses acts of terrorism, the Committee urges the Government to take the measures necessary to amend section 2 of the Act on the suppression of terrorism to ensure that it does not apply to the legitimate activities of workers' and employers' organizations, which are protected under the Convention. In the meantime, the Committee requests the Government to continue providing information on the measures taken to ensure that: (i) the implementation of this Act does not have harmful consequences on officials and members engaged in their functions, and performing trade union or employer activities pursuant to Article 3 of the Convention; and (ii) the Act is enforced in such a way that it is not perceived as a threat or intimidation towards trade union members or the whole trade union movement.***

Legislative reform. Articles 2 and 5 of the Convention. For many years, the Committee has been recalling the need to: (i) amend Act No. 68/LF/19 of 18 November 1968 (under the terms of which the legal existence of a trade union or occupational association of public servants is subject to prior approval by the Minister of Territorial Administration); (ii) amend sections 6(2) and 166 of the Labour Code (which lay down penalties for persons establishing a trade union which has not yet been registered and acting as if the said union had been registered); and (iii) repeal section 19 of Decree No. 69/DF/7 of 6 January 1969 (under the terms of which trade unions of public servants may not affiliate to an international organization without obtaining prior authorization). ***The Committee urges the Government to provide information on any progress or developments in this regard.***

Noting once again with deep regret that, according to the information provided by the Government, the process of revising the Labour Code has still not been completed, the Committee is bound once again to urge the Government to finalize the legislative revision process, without further delay, so as to give full effect to the provisions of the Convention on the abovementioned points.

Chad

Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 1998)

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2009.

Article 1 of the Convention. Scope of application. Noting that section 3 of the General Public Service Regulations excludes from their scope of application local government officials, employees in public establishments and auxiliary personnel employed by the administration who are governed by a specific text, the Committee requests the Government to indicate the legal texts in force which recognize for all these categories of public employees, the rights and guarantees envisaged by the Convention. In so far as legal texts governing the specific conditions of service of these public employees grant them these rights and guarantees, the Committee requests the Government to provide copies thereof.

Article 4. Adequate protection against acts of anti-union discrimination. The Committee notes that, while section 10 of the General Public Service Regulations provides that there may be no discrimination between public employees on the grounds of their trade union opinions, no provision in the Regulations, or in other texts applicable to public employees, establishes protection against discrimination in the exercise of trade union activities. The Committee urges the Government to take measures to include in the legislation provisions that explicitly provide adequate protection for public employees against discrimination on the grounds of their trade union membership or activities.

Article 5. Adequate protection against acts of interference. Noting that neither the General Public Service Regulations, nor other texts applicable to public employees, contain provisions prohibiting acts of interference by the public authorities in the internal affairs of unions, and recalling the need, in accordance with the Convention, to fully guarantee adequate protection for organizations against any acts of interference by public authorities in their establishment, operation and administration, the Committee urges the Government to take measures to include such protective provisions in the legislation.

Article 6. Facilities to be afforded to workers' representatives. Noting the absence of provisions in the General Public Service Regulations explicitly providing for such facilities, the Committee once again urges the Government to take measures, as required by the Convention, with a view to ensuring, through the adoption of legislative provisions or other means, that facilities are afforded to the representatives of recognized public employees' organizations in order to allow them to perform their functions promptly and efficiently both during working hours and at other times.

Article 7. Procedures for determining terms and conditions of employment. The Committee urges the Government to provide a copy of the Decree determining the composition, operation and appointment of the members of the Public Service Advisory Committee, and to indicate any consultations or agreement concluded with trade union organizations in the public sector over recent years.

Article 8. Settlement of disputes. Noting the absence of provisions in this respect, the Committee once again urges the Government to take measures to establish a procedure offering guarantees of independence and impartiality (such as mediation, conciliation or arbitration) with a view to settling disputes arising out of the determination of the terms and conditions of employment of public employees.

The Committee expects that the Government will take all the necessary measures without delay in consultation with the representative organizations concerned, and will act on the Committee's comments and accordingly give full effect to the provisions of the Convention.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Congo

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

The Committee notes the Government's reply to the allegations made by the International Trade Union Confederation (ITUC) in 2014 concerning a strike by teachers that reportedly resulted in: (i) the arbitrary arrest of teachers who are trade unionists by the Directorate-General for Territorial Surveillance (DGST); and (ii) the abduction in June 2013 of Mr Dominique Ntsienkoulou, a member of the Dialogue Group for the Redevelopment of the Teaching Profession (CRPE), by officials of the Provincial Directorate for Territorial Surveillance (DDST) and his subsequent disappearance. The Committee notes that, according to the Government: (i) the Directorate-General of the Police (and not the DGST) summoned the leaders of the CRPE to explain the reasons for their excessive action during the strike; and (ii) Mr Ntsienkoulou left his home on his own initiative and was never arrested, abducted or investigated by the national police services. In light of the divergent information provided by the ITUC and the Government, the Committee wishes to recall that the public authorities must not interfere in the legitimate activities of trade union organizations by subjecting workers to arrest or arbitrary detention, and that the arrest and detention of trade unionists, without any charges being brought or without a warrant, constitute a serious violation of the trade union rights enshrined in the Convention. **The Committee trusts that the Government will ensure that these principles are fully respected and urgently requests it to further investigate the situation of Mr Ntsienkoulou, particularly as to his safety and whereabouts and to provide information in this respect.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Croatia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1991)

The Committee notes the observations of the International Trade Union Confederation (ITUC) in its communication dated 1 September 2018, alleging that employers from both the private and public sectors are undermining the collective

bargaining process by delaying negotiations, favouring negotiations with yellow unions and concluding agreements directly with work councils. ***The Committee requests the Government to provide its comments thereon.***

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. Rapid appeal procedures. In its previous comments, the Committee had noted the allegations of excessive court delays in dealing with cases of anti-union discrimination and requested the Government to provide details on the measures taken or envisaged to accelerate judicial proceedings in cases of anti-union discrimination and to provide statistics concerning the impact of such measures on the length of proceedings. The Committee notes that the Government indicates that: (i) due to the large number of labour disputes in the area, the Government has undertaken judicial reforms in order to accelerate judicial proceedings including the establishment of the Municipal Labour Court in Zagreb; (ii) by virtue of the Law on Areas and Seats of the Courts, which entered into force on 1 April 2015, five county courts (Bjelovar County Court, Osijek County Court, Rijeka County Court, Split County Court and Zagreb County Court) have been charged with the harmonization of court practices and the acceleration of appeal proceedings regarding labour disputes before municipal courts; and (iii) since 2014, 30 civil actions regarding anti-union discrimination have been brought before the courts, of which eight complaints have been solved by the courts; 31 cases are still pending (nine of which were filed before 2014). While taking due note of the detailed elements provided by the Government, the Committee observes with **concern** that it stems from this information that the judicial resolution of anti-union discrimination cases is still characterized by excessive delays. ***Recalling that the existence of legal provisions prohibiting acts of anti-union discrimination is not enough if they are not accompanied by effective and rapid procedures to ensure their application in practice, the Committee urges the Government to take, jointly with the competent authorities, effective measures to significantly accelerate the judicial proceedings in cases of anti-union discrimination. The Committee requests the Government to provide information in this respect as well as on the results obtained, and recalls that it may avail itself of the technical assistance of the Office.***

Articles 4 and 6. Collective bargaining of public servants not engaged in the administration of the State. The Committee recalls that since 2007 it has been examining allegations related to the unilateral modification, for financial reasons, of the substance of collective agreements in the public sector through the adoptions of several Acts. The Committee recalls that this issue was also addressed by the Committee on the Application of Standards in 2014 and by the Committee on Freedom of Association (CFA). The Committee further observes that both the 2016 observations of the Union of Autonomous Trade Unions of Croatia (UATUC) and the Association of Croatian Trade Unions (MATICA) also refer to this question. The Committee notes that, concerning the effects of the Act on Withdrawal of Right to Salary Increase Based on Years of Service, the CFA had noted in October 2016 that the Act was no longer in force since 1 January 2016 and had understood that negotiations concerning wage increase between the Government and public and civil service unions had since begun. After recalling that, in the context of economic stabilization, priority should be given to collective bargaining as a means of determining the employment conditions of public servants, rather than adopting legislation to restrain wages in the public sector, the CFA had trusted that, for the maintenance of the harmonious development of labour relations, the parties would bargain in good faith and make every effort to reach an agreement (see 380th report of the Committee on Freedom of Association, Case No. 3130, paragraph 398). The Committee further notes that the Government states that: (i) all acts of realization adopted for the period 2011–17 do not contain provisions on the unilateral amendment of the provisions of a collective agreement in the public service for financial reasons; (ii) the Act on non-payment of certain financial rights of persons employed in public services is no longer in force since 1 January 2016; and (iii) since 2017, the basic salary for both civil and public servants increased by 2 per cent, and other material rights are being fully paid as agreed in collective agreements. The Committee takes due note of this information. ***Underlining the importance of ensuring that any future Act related to the State Budget does not enable the Government to modify, for financial reasons, the substance of collective agreements applicable to the public servants not engaged in the administration of the State, the Committee requests the Government to provide updated information on the collective agreements negotiated and signed in the public sector, and to indicate whether the 2 per cent increase in wages is the result of collective bargaining.***

The Committee is raising other matters in a request addressed directly to the Government.

Democratic Republic of the Congo

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2001)

Articles 2 and 5 of the Convention. Right to organize in the public service. The Committee notes with **interest** the adoption of Act No. 16/013 of 15 July 2016 on the conditions of service of permanent public service employees. It notes that, under the terms of section 94, freedom of association is guaranteed for public service employees, and that they can freely establish and join trade union organizations and hold trade union office, and that such organizations may conduct legal proceedings. The Committee notes that, under section 93 of the Act, the exercise of the right to strike by public service employees can only be restricted under the conditions established by the law, in particular, so as to ensure the normal provision of “public services of vital interest, which cannot suffer any type of interruption”. A Decree of the Prime Minister adopted in the Cabinet (*Conseil des ministres*), on a joint proposal by the ministers responsible for the public

service and human rights, establishes the list of services of vital interest, as well as the details of the minimum service in these services. ***The Committee requests the Government to provide a copy of the abovementioned Decree of the Prime Minister with its next report.***

With regard to the trade union rights of judges, the Committee previously noted that, according to the Government, the freedom of association of judges is recognized under the provisional Order of 1996 and that judges' trade unions exist. The Committee notes that Organic Act No. 06/020 of 10 October 2006 on the conditions of service of judges, to which the Government refers in its report, does not contain any provisions that address the concerns of the Committee. ***The Committee therefore requests the Government to indicate whether provisions are envisaged to explicitly ensure that judges enjoy the rights laid down in the Convention.***

Article 3. Right of foreign workers to hold trade union office. In its previous comments, the Committee noted with regret that Act No. 16/010 of 15 July 2016 amending and supplementing Act No. 015-2002 on the Labour Code did not remove the provision requiring 20 years of residence in order to be eligible for appointment to administrative or executive positions in trade unions (new section 241). While noting the Government's reference to the work of the National Labour Council, which requires the provision in question to be maintained so that foreign workers have a full understanding of national labour legislation and practices, the Committee observes that it has considered a period of three years to be reasonable in this respect but that a 20-year period for access to trade union office is excessive (see the 2012 General Survey on the fundamental Conventions, paragraph 103). ***Recalling that national legislation should allow foreign workers to take up trade union office, at least after a reasonable period of residence in the host country, the Committee urges the Government to take measures to amend section 241 of the Labour Code, as revised by the Act of July 2016, accordingly.***

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1969)

Article 2 of the Convention. Protection against acts of interference. The Committee previously recalled that, although section 235 of the Labour Code prohibits all acts of interference by employers' and workers' organizations in each other's affairs, section 236 provides that acts of interference shall be defined more precisely in an Order issued by the Minister of Labour and Social Welfare in consultation with the National Labour Council. ***Noting with regret that the Order in question has still not been adopted, the Committee trusts that the Government's next report will finally indicate that specific progress has been made in this regard, and that the Order will include the various acts envisaged in Article 2 of the Convention.***

Articles 4 and 6. Collective bargaining in the public sector. In its previous comments, the Committee noted, on the one hand, that wage bargaining and agreements exist in the public sector and that joint committees operate, and on the other, that section 1 of the Labour Code expressly excludes from its scope of application permanent public service employees governed by the general conditions of service and permanent public service employees and officials governed by specific conditions of service. The Committee asked the Government to take the necessary measures to ensure that the national legislation clearly guarantees the right to collective bargaining of all public servants not engaged in the administration of the State, so that the legislation is consistent with practice. The Committee notes the Government's indication that a joint government/public administration trade union commission was established in December 2017 in order to develop a salary scale and to ensure that Act No. 16/013 of 15 July 2016 on the conditions of service of permanent public service employees gives effect to the provisions of the Convention. The Committee observes that the Act of 2016 establishes the right to organize and to strike for public servants and that it establishes advisory bodies, but does not provide for machinery for collective bargaining of conditions of employment. At the same time, the Committee notes that the persons covered by the Act are primarily employees engaged in the administration of the State (section 2). In this regard, the Committee recalls that, under *Article 6*, the Convention applies to workers and public servants who are not engaged in the administration of the State (for instance, employees in public enterprises, municipal employees and those in decentralized entities, public sector teachers, as well as transport personnel) (see 2012 General Survey on the fundamental Conventions, paragraph 172). ***The Committee therefore once again requests the Government, to indicate the manner in which the right to collective bargaining is granted to various categories of public servants who are not engaged in the administration of the State and to take, if necessary, steps to ensure that this right is granted to them both in law and in practice.***

Branch-level collective bargaining. The Committee observes with *regret* that it still has not received any information on the adoption of the Order determining the operation of the joint committees, provided for under section 284 of the Labour Code on branch-level collective bargaining. ***Recalling once again that it made its initial request on this matter in 2003, the Committee expects the Government to provide information in its next report on the adoption of the Order determining the operation of the joint committees.***

Promotion of collective bargaining in practice. ***The Committee requests the Government to provide information on the number of collective agreements concluded and in force in the country, as well as the sectors concerned and the number of workers covered by these Conventions.***

Workers' Representatives Convention, 1971 (No. 135) (ratification: 2001)

The Committee notes with *regret* that the Government's report does not contain information in response to the observations presented by the Confederation of Trade Unions of Congo (CSC) in 2014, alleging that, in several enterprises, workers' representatives do not enjoy effective protection as set out in *Article 1 of the Convention* and that some have even been dismissed or demoted. *The Committee urges the Government to provide its comments in this regard.*

The Committee notes that section 258 of the Labour Code provides that any dismissal of a titular or substitute delegate by an employer or his or her representative or any transfer that involves the loss of status of the delegate shall be contingent on the approval of the competent labour inspector. The Committee also notes: (i) Ministerial Order No. 12/CAB.MIN/ETPS/041/08 of 8 August 2008 on recourse to a judicial review of the decision of the labour inspector in the event of dismissal or transfer of a titular or substitute trade union delegate; (ii) Ministerial Order No. 048/CAB/VPM/METPS/2015 of 8 October 2015 amending and supplementing Ministerial Order No. 12/CAB.MIN/TPS/ar/NK/054 of 12 October 2004 establishing the procedures for workers' representation and electoral appeals in enterprises or establishments of any kind; and (iii) the protection measures provided for by these two texts, in section 1 and chapters VI (repudiation of a trade union delegate) and VII (facilities afforded to delegates), respectively.

Nevertheless, in view of the many cases examined by the Committee on Freedom of Association, which mainly concern acts of anti-union discrimination against trade union leaders and representatives, the Committee is once again bound to urge the Government to take all the necessary measures (for example, by giving specific instructions to the labour inspectorate) to guarantee in practice the full application of the provisions of the Convention, including those concerning the protection of workers' representatives and the facilities to be afforded to them for the performance of their functions. The Committee requests the Government to supply information on the application of the relevant provisions of the Labour Code and the Orders mentioned above, with a particular indication of the number of cases in which acts of discrimination against workers' representatives have been recorded and the follow-up actions taken in this regard.

Ecuador

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1959)

The Committee notes the joint observations of Public Services International in Ecuador (PSI-Ecuador) and the National Federation of Education Workers (UNE), received on 31 August 2018, which refer to issues examined in the context of the present comment and to specific allegations of anti-union discrimination in the public and private sectors. The Committee notes that these observations also refer to matters relating to the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), which will therefore be taken into consideration during the next examination of the application of that Convention by the Committee. *The Committee requests the Government to send its comments on the aforementioned allegations of anti-union discrimination and also on those contained in the 2016 observations of the UNE and PSI-Ecuador. The Committee urges the Government to send its comments on the specific allegations of anti-union dismissals at an enterprise in the banana industry contained in the 2014 observations of the International Trade Union Confederation (ITUC).*

Application of the Convention in the public sector

Articles 1, 2 and 6 of the Convention. Protection of public sector workers who are not engaged in the administration of the State against acts of anti-union discrimination and interference. In its previous comments, after noting with interest that the Basic Act reforming the laws regulating the public service (Basic Reform Act) contains various provisions providing protection against acts of anti-union discrimination and interference, including with regard to the "compulsory purchase of redundancy" mechanism, the Committee asked the Government to provide information on the penalties and compensation applicable to the aforementioned acts and on the scope of application of some of these provisions. The Committee notes that the Government reports the adoption of Ministerial Order No. MDT-2018-0010 regulating the exercise of public servants' right to organize. The Committee notes in this regard that: (i) the fourth general provision of the aforementioned Ministerial Order provides that any act that seeks to hamper, restrict or undermine the right to organize shall be grounds for dismissal of the person committing the act; and (ii) section 15 regarding violations of the right to organize provides that any public servant or committee of public servants can obtain protection of the right to organize from the competent jurisdiction. However, the Committee observes that: (i) the definition of a violation of the right to organize laid down by the aforementioned provision is limited to acts of interference and therefore appears narrower in scope than the relevant provisions of the Basic Reform Act, which prohibit both anti-union interference and discrimination; and (ii) with the limited exception of the fourth general provision, which is only concerned with penalties applicable to persons carrying out certain anti-union acts, the Ministerial Order does not determine the other penalties and compensation applicable in cases of anti-union discrimination or interference. *Recalling once again the importance of having effective and dissuasive penalties in this respect, the Committee requests the Government to provide information on the penalties and compensation applicable to acts of anti-union discrimination and interference*

committed in the public sector, indicating the legislative or regulatory provisions that establish them. The Committee also once again requests the Government to indicate whether, in addition to the leadership of the Civil Service Committee, the leaders of organizations of public servants also have extra protection against the elimination of positions or benefit from other similar measures, including in the event of recourse to the compulsory purchase of redundancy mechanism. Lastly, observing that PSI-Ecuador and the UNE indicate that legal action has been taken to have the above mechanism declared unconstitutional, the Committee requests the Government to provide information on the outcome of the legal action.

Articles 4 and 6. Collective bargaining for public sector workers who are not engaged in the administration of the State. In its previous comments, the Committee noted with concern that the constitutional amendments adopted in December 2015 limit the right to engage in collective bargaining to the private sector and that the Basic Reform Act adopted in May 2017 does not provide for collective bargaining mechanisms but only recognizes the possibility of social dialogue between the Civil Service Committee and the public institutions on a limited number of subjects not including remuneration. On the basis of the above, the Committee urged the Government to reopen an in-depth debate with the trade unions concerned with a view to re-establishing an adequate collective bargaining mechanism for all categories of workers in the public sector covered by the Convention. The Committee also asked the Government to provide information on collective agreements signed with public sector workers hired prior to the entry into force of the constitutional amendments of 2015.

The Committee notes the Government's indications in this regard that: (i) on 4 April 2018, the Ministry of Labour issued two circulars (No. MDT-2018-0018 and No. MDT-2018-0019) confirming that there are no restrictions preventing persons hired as public employees before the 2015 constitutional amendments – who are therefore subject to the provisions of the Labour Code – from retaining their right to collective bargaining; (ii) since the two circulars were issued, six new collective agreements have been signed in the public sector for the above-mentioned category of workers; and (iii) as previously mentioned, Ministerial Order MDT-2018-0010 regulating the exercise of the right to organize for public servants was adopted in 2018. The Committee also notes the indications of PSI-Ecuador and the UNE that: (i) the constitutional amendments of 2015 excluding the entire public sector from the scope of collective bargaining have been annulled by the Constitutional Court (Judgment No. 018-18-SIN-CC of 1 August 2018) for procedural flaws, which intensifies the legal limbo for public sector workers who were previously subject to the provisions of the Labour Code; (ii) the Ministry of Labour reported a proposal to reform the Labour Code which would cover both private and public sector workers but the drafting of the proposal is making slow progress; (iii) a public sector committee with an advisory role regarding remuneration has been set up within the National Labour and Wage Board but there are problems regarding trade union representatives on that committee being co-opted by the Government; and (iv) even though there has been some resumption of collective bargaining with public sector workers hired prior to the 2015 constitutional amendments (and who therefore retain their right to collective bargaining), the aforementioned negotiations are subject to multiple restrictions which have been observed since 2008 by the ILO supervisory bodies, especially as regards remuneration.

While welcoming the resumption of collective bargaining with public sector workers hired prior to the 2015 constitutional amendments, the Committee observes that the Basic Reform Act and the new Ministerial Order regulating the exercise of public servants' right to organize still do not recognize the right to collective bargaining for other public sector workers. In this respect, the Committee once again recalls that under *Articles 4 and 6* of the Convention, persons employed in the public sector who are not engaged in the administration of the State (including employees in public enterprises, municipal employees and those in decentralized entities, public sector teachers and transport personnel) are covered by the Convention (see 2012 General Survey on the fundamental Conventions, paragraph 172). Hence they should be able to negotiate collectively their conditions of work, including their wage conditions, and mere consultation of the unions concerned is not sufficient to meet the requirements of the Convention in this respect (see 2012 General Survey, op. cit., paragraph 219). *Observing that both the effects of the Constitutional Court judgment of 2018 concerning the constitutional amendments of 2015 and the planned revision of the Labour Code may constitute a favourable context in this respect, the Committee once again urges the Government to reopen an in-depth debate with the trade unions concerned with a view to establishing an adequate collective bargaining mechanism for all categories of workers in the public sector covered by the Convention. The Committee requests the Government to provide information on progress made in this regard and reminds the Government that it may avail itself of technical assistance from the Office in this respect.*

Application of the Convention in the private sector

Article 1. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee asked the Government to take the necessary measures to ensure that the legislation includes a specific provision guaranteeing protection against acts of anti-union discrimination in access to employment. The Committee notes the Government's indication that: (i) on 16 June 2017, Ministerial Order No. 16 was issued, containing regulations for the elimination of discrimination in the workplace; (ii) however, the regulations in force do not contain specific provisions regarding the prohibition of anti-union discrimination in access to employment; and (iii) measures ensuring compliance with the comments of the Committee will be decided upon in the regulatory reform process and in the adoption of secondary legislation. *Recalling that it has been repeating its comments on this matter for decades, the Committee trusts*

that the Government will very soon be in a position to report that a specific provision has been introduced into the legislation guaranteeing protection against acts of anti-union discrimination in access to employment.

Article 4. Promotion of collective bargaining. In its previous comments, the Committee pointed out the need to amend section 221 of the Labour Code with respect to the submission of draft collective agreements so that, where there is no organization with over 50 per cent of the workers as members, minority trade unions may, either alone or jointly, negotiate on behalf of their members. The Committee once again notes that the Government again indicates that the content of section 221 of the Labour Code, in line with sections 452 and 459 of the Code concerning enterprise committees, is based on democratic principles in determining that the most representative organization shall be the one authorized to negotiate with the employer. In this respect, the Committee once again recalls that, while it is acceptable that the union which represents the majority or a high percentage of workers in a bargaining unit should enjoy preferential or exclusive bargaining rights, the Committee considers that in cases where no union meets these conditions, or does not enjoy such exclusive rights, minority trade unions should at least be able to conclude a collective or direct agreement on behalf of their own members (see 2012 General Survey, op. cit., paragraph 226). ***In the light of the above, the Committee once again requests the Government, in consultation with the social partners, to take the necessary steps to amend section 221 of the Labour Code so that where there is no organization with over 50 per cent of the workers as members, minority trade unions may, either alone or jointly, at least negotiate on behalf of their members. Moreover, noting the Government's indication that it is not currently in a position to provide the requested statistics, the Committee once again requests the Government to provide information on the number of collective agreements signed and in force in the country, the sectors of activity and the number of workers covered by them.***

Ministerial Orders establishing new forms of contract for banana plantation workers and agricultural workers. The Committee notes that PSI-Ecuador and the UNE have sent observations from the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC) claiming that Ministerial Orders Nos MDT-029-2017, MDT 074-2018 and MDT-096-2018, which establish new forms of contract for banana plantation workers and agricultural workers, obstruct the effective exercise of the right to collective bargaining in those sectors. ***The Committee requests the Government to send its comments in this regard and to provide information on existing collective agreements in the above-mentioned sectors.***

Recalling that in 2017 the Government agreed with the Office on the provision of technical assistance on legislative matters but that the Committee has not received any further information on this matter, the Committee continues to trust that the Government will very soon be in a position to report the adoption of legislative provisions that take account of the comments that the Committee has been making for a number of years regarding both the public and private sectors.

Egypt

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

The Committee takes note of the observations made by the Union of Egyptian Democratic Workers and the Trade Union Organization of Transport Workers in Greater Cairo (TUWC) received on 31 August 2018; the International Trade Union Confederation (ITUC), the Real Estate Tax Authority Union, the Union of Workers in the Bibliotheca Alexandria, the Union Committee of Workers in Suez and the Union Committee of Damietta Fishers, received on 1 September 2018; the International Transport Workers' Federation (ITF), received on 4 September 2018; the General Union of Transport Workers and Services on 18 and 23 October 2018, in relation to the application of the Convention in law and in practice and the Government's reply thereto.

Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing. The Committee recalls that it, alongside the Conference Committee on the Application of Standards, has been urging the Government to take steps to ensure that all workers are ensured the full enjoyment of their fundamental right to freely organize and, in particular, to guarantee the independence of trade unions and the elimination of all forms of interference in workers' organizations. The Committee had noted the Government's indication that the philosophy of the new Trade Union Law was based on the consolidation of the principle of free establishment of trade union organizations and federations, as well as the guarantee of their democracy and stability. The Committee had noted, however, the concerns raised by the ITUC, and further voiced by a number of stakeholders to the direct contacts mission in 2017, that the provision granting continuing legal personality only to trade union organizations recognized by law at the time of its enforcement would seriously disadvantage those unions that had been registered pursuant to the 2011 Ministerial Declaration on Freedom of Association as they were not considered as being recognized by law. The Committee had emphasized that, in the context of a long-entrenched system of legislatively imposed trade union monopoly, it was critical that all trade unions be given an equal chance to be registered under the new trade union law. It urged the Government to ensure that all trade unions existing at the time of the adoption of the Law on trade union organizations are able to function freely and carry out their activities without interference pending their regularization under the Law and to ensure that workers wishing to change their trade union membership may do so without detriment to their acquired rights relating

to contributory provident funds, which otherwise might hinder the workers' freedom to choose the organization with which they wish to affiliate.

The Committee takes due note of the Government's indication that the Trade Union Law No. 213 was promulgated on 17 December 2017 and the implementing regulations issued in Ministerial Decree No. 35 on 13 March 2018. The Government states that all trade union organizations have reconciled their status whether they had been established under the previous Law No. 35 of 1976 or the 2011 Ministerial Declaration. The Government also states that trade union elections were held by direct secret ballot and all organizations are free to join others, form federations or work on their own.

While welcoming the adoption of the new Trade Union Law which no longer refers to a specific trade union federation which had previously given rise to a trade union monopoly situation imposed by law, the Committee notes with **concern** the numerous observations received from Egyptian and international trade unions indicating that the implementation of the Trade Union Law was carried out in a manner fraught with interference and obstacles to the registration of independent or autonomous trade unions which did not wish to be encompassed within the umbrella of the traditional Egyptian Trade Union Federation (ETUF). In this regard, the Government refers to a number of reasons for which certain trade union committees were not reconciled, including: a request for regularization was not submitted; the undertaking was merged or liquidated; problems among the members of the union executive board; a trade union fails to communicate with its affiliated members; documents submitted did not meet requirements and the union failed to address the shortcoming; dual membership in more than one union at the same level without exercising more than one occupation; not meeting the minimum membership requirement. The Government states that following the regularization, 2,214 trade union committees, 27 general trade unions and one confederation were registered. From the above number, 135 trade union committees and three general trade unions which had been set up under the 2011 Declaration were regularized. In a later communication, the Government indicates that 142 trade union committees which are not affiliated to the ETUF had regularized their status. The Government adds that those who were not able to regularize their situation can apply for a certificate of establishment and deposit with the administrative body at any time.

The Committee notes from the numerous communications received from the workers' organizations a variety of concerns about the registration and election processes, including: unions that were able to reconcile their status but were excluded from elections and thus effectively barred from trade union activity; unjustified requests for documentation or registration; postponements in accepting applications; imposition of model by-laws; delays in delivering certificates rendering any trade union activity impossible; refusal to register trade union committees where another trade union was already in place; government removal of election candidates from the process. Additional complaints were made of pressure to join the ranks of the ETUF referring to several examples of general unions which eventually did affiliate and details were given on the disqualification of hundreds of independent candidates for trade union elections. According to these organizations, no remedial steps had been taken by the competent authorities, despite having raised these matters with the Ministry. The ITUC transmits a list of 40 trade union committees that are still awaiting the regularization of their status and concludes that the application of the Trade Union Law was carried out in such a way as to perpetuate the previously imposed trade union monopoly.

The Committee notes the Government's reply to these observations that: (i) the majority of complaints lack tangible, concrete evidence or correct documents and include unsubstantiated claims or impressions that cannot be proved; (ii) three general trade unions which were not affiliated to ETUF freely applied to join the organization after they regularized their status; (iii) the General Union of Transport Workers was established and it is not affiliated to ETUF although the general unions have similar trade unions that are affiliated; (iv) 14 out of 25 union committees of the Real Estate Tax Union have been able to regularize their status; (v) no evidence has been provided of the withdrawal of workers from ETUF or their request to cease their deduction of union membership; (vi) the role of the Ministry of Manpower in elections is limited to organization while the exclusion of candidates and examination of grievances is under the authority of the judge; (vii) any delays gave rise to an extension in the voting period; and (viii) not entering the election does not restrict the trade union from exercising its activities nor effect the legal personality it has acquired. The Government assures that it will continue to work with full transparency and in cooperation with the ILO in order to overcome the challenges facing the Egyptian experience in establishing a nascent trade union freedom that has not been witnessed in the country for ages.

Finally, the Committee takes note of the comments made by the workers' organizations that numerous provisions in the law interfere with the right of workers' organizations to draw up their constitutions and rules and elect their representatives in full freedom and the Government's general reply thereto. The Committee will examine these matters fully with the Government's detailed report which is due next year.

While duly noting the information provided by the Government, the Committee finds itself bound to note with **deep regret** that despite the efforts made over many years to bring the legislation into line with the Convention, certain of the provisions of the Trade Union Law, its corresponding regulations, and their practical application have given rise to allegations of serious obstacles impeding the full exercise of freedom of association for all workers. **The Committee welcomes the Government's invitation to assist those organizations that were not able to regularize their situation and, in light of the detailed observations and specific cases raised in the communications from the national and international trade union organizations, requests the Government to review each of these cases with the organization concerned and to provide detailed information on the steps taken in this regard.**

Minimum membership requirements. In its previous comment in 2017, the Committee had noted the concerns raised by the ITUC and by various stakeholders to the direct contacts mission that the minimum membership requirements for establishing a trade union at the various levels (enterprise, sectoral and national) were excessive and likely to hinder the right of workers to establish the organization of their own choosing and prevent the establishment of independent trade unions in practice. The Committee requested the Government to lower the minimum membership requirement for forming a trade union at enterprise level, set at 150 workers, so as to ensure the rights of workers to form and join the organization of their own choosing. The Committee notes the information in the Government's latest report that it is currently studying the impact of the Trade Union Law's provisions and undertaking a societal dialogue including all trade union organizations, employers' representatives, and a few workers' representatives who had not managed to regularize their status, to discuss the lowering of the minimum number required to form a trade union committee to 50 workers. The Government adds in its reply to the observations from the national and international workers' organizations that many trade unions were able to meet this requirement and they have not received any complaints that it constituted an obstacle to registration. The Committee must observe however that the numerous observations received from international and national workers' organizations indicate to the contrary that the minimum membership requirement may be easily met by those elements of the trade union movement which had benefited from the decades of legislatively imposed trade union monopoly but were much more challenging for the independent trade unions. In this regard, the Committee recalls that it has previously noted that well over 90 per cent of the Egyptian economy was situated in micro- and small enterprises with fewer than 50 workers. ***The Committee trusts that the Trade Union Law will be amended in the near future to ensure that the level of minimum membership requirement at the enterprise level, as well as those for forming general unions and confederations (set at 15 enterprise unions and 20,000 workers and ten general trade unions and 200,000 workers, respectively) are amended so that they do not impede the right of all workers to form and join the organizations of their own choosing.***

As regards its previous comments that the ban on workers joining more than one trade union should not apply in cases where the worker holds more than one job in different workplaces, the Committee notes the Government's indication that the phrase "even if a worker exercises more than one occupation" was deleted from the prohibition in section 21(h) relating to the joining of more than one workers' organization. The Government adds however that a worker who joins two trade unions of the same level would be in violation of this provision. ***The Committee trusts that the modification referred to by the Government will enable workers who have more than one job to join each of the corresponding unions in practice even if they are the same level (trade union committee, general union).***

Articles 3 and 5. Right of workers' organizations to organize their administration without interference and to enjoy the benefits of international affiliation. In its previous comments, the Committee noted the concerns raised by the ITUC in its observations and by several stakeholders to the direct contacts mission in relation to the ban on receipt of aid grants from foreign organizations in the draft trade union organizations law. Recalling its request that the Government modify this prohibition so as to ensure that it clearly enables trade unions to benefit from the technical assistance and support that may be provided by foreign entities for the exercise of their legitimate trade union activities, the Committee notes with ***interest*** that section 5 of the implementing regulations explicitly provides that trade union organizations may benefit from the technical cooperation programmes and activities provided by international organizations concerned with labour and worker affairs.

Finally, the Committee notes with ***regret*** that the Government has not amended the section of the Trade Union Law that penalizes various contraventions with imprisonment and simply states that their aim is to protect trade union work from intruders or the misuse of the name of a trade union in illicit work. ***While noting that the Government reiterates that these penalties are imposed in relation to issues that are considered crimes under the Penal Code and not related to trade union activities, the Committee nevertheless observes that imprisonment can be imposed for a wide variety of violations, and requests the Government to continue to keep these provisions under review and to provide detailed information on their application.***

Labour Code. As regards the comments it has been making for several years on Labour Code No. 12 of 2003, the Committee notes the Government's indication that a large number of the provisions commented upon by the Committee have been deleted in the latest draft. The Government provides certain explanations in response to some of the Committee's comments; however it would appear that there remain certain issues in relation to the legal obligation for workers' organizations to specify in advance the duration of a strike, an infringement of which is considered to be serious misconduct liable to dismissal of workers (sections 201 and 121(8) of the draft); the ability to have recourse to compulsory arbitration at the request of only one of the parties (sections 186 and 198); and the prohibition of industrial action in vital or strategic enterprises where stoppage of work would compromise national security or basic services provided for citizens to be designated in a decree by the Prime Minister (section 203). ***The Committee requests the Government to submit a copy of the latest draft of the Labour Code and expects that it will take fully into account the Committee's previous comments in order to bring it into line with the Convention.***

As regards the scope of the draft Labour Code, the Committee had noted in its previous comments the Government's statement that it would prepare a new draft Law regulating domestic work and protecting domestic workers' rights. ***The Committee once again requests the Government to provide a copy of the Law regulating domestic work.***

El Salvador

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2006)

The Committee notes the joint observations of the National Business Association (ANEP) and International Organisation of Employers (IOE), received on 11 September 2018, which refer to issues covered by this observation and also allege the existence of a campaign to intimidate ANEP. ***The Committee requests the Government to send its comments in this regard.***

The Committee also notes the observations of the National Confederation of Salvadoran Workers (CNTS), received on 8 June 2018, indicating that the preliminary draft law on the public service will undermine the right to organize and freedom of association in the public sector, which are guaranteed by the Convention. ***The Committee requests the Government to send its comments in this regard.***

The Committee further notes the report of the direct contacts mission, which visited the country from 3 to 7 July 2017, following a request by the Committee on the Application of Labour Standards of the International Labour Conference (hereafter “the Conference Committee”) in June 2016.

Trade union rights and civil liberties. Murder of a trade unionist. With regard to the murder of Mr Victoriano Abel Vega in 2010, the Committee notes the Government’s indication that in March 2018, it requested an updated report from the Attorney General of the Republic, who stated that: (i) the investigation, conducted by the Prosecution Unit Specializing in Organized Crime (UFEDCO), is active and that the Anti-Organized Crime Elite Division of the National Civil Police (DECO) has been working on the case; (ii) at present, there is no concrete material evidence relating to the perpetrator or participation in the events; and (iii) once such evidence has been obtained, the relevant criminal proceedings will be initiated. In the light of this information, the Government indicates that it has sent requests for additional information to UFEDCO and DECO. Observing that the Committee on Freedom of Association has been examining this matter in the context of Case No. 2923 (March 2017, 381st Report), the Committee refers to its recommendations in this regard. ***While noting the information provided by the Government, the Committee firmly hopes that the Government and the competent authorities will give full effect to the recommendations of the Committee on Freedom of Association so as to determine criminal liability and punish the perpetrators of this crime in the near future.***

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and to join organizations of their own choosing without previous authorization. Exclusion of some categories of public employees from the guarantees of the Convention. In its previous comments, the Committee requested the Government to take the necessary measures to amend articles 219 and 236 of the Constitution of the Republic and section 73 of the Civil Service Act (LSC), which exclude certain categories of public servants from the right to organize (members of the judiciary, public servants who exercise decision-making authority or are in managerial positions, employees with duties of a highly confidential nature, private secretaries of high-ranking officials, diplomatic representatives, assistants of the Public Prosecutor, or auxiliary agents, assistant prosecutors, labour prosecutors and delegates). The Committee, having noted that the revision of the Constitution requires agreement by two consecutive, ordinary legislative assemblies, requested the Government to report the measures taken for the necessary amendments. The Committee observes that the Government once again: (i) reiterates that the amendment of section 73 of the LSC presupposes the amendment of articles 219 and 236 of the Constitution; (ii) emphasizes that, among other requirements, the revision of the Constitution requires, first of all, the presentation of a proposal by at least ten representatives; and (iii) indicates that, at present, there is no group of ten or more representatives who wish to propose the amendment of articles 219 and 236 of the Constitution. ***Hoping to be able to observe progress in the near future with respect to the exclusion of categories of public servants from the guarantees of the Convention, the Committee once again requests the Government to take the necessary measures for the amendment of articles 219 and 236 of the Constitution and section 73 of the LSC as indicated.***

Articles 2 and 3. Other legislative reforms requested. For several years, the Committee has been requesting the Government to take the necessary measures to amend the following legislative and constitutional provisions:

- section 204 of the Labour Code, which prohibits membership of more than one trade union, so that workers who have more than one job in different occupations or sectors are able to join trade unions;
- sections 211 and 212 of the Labour Code (and the corresponding provision of the LSC on unions of public service employees), which establish, respectively, the requirement of a minimum of 35 members to establish a workers’ union and a minimum of seven employers to establish an employers’ organization, so that these requirements do not hinder the establishment of workers’ and employers’ organizations in full freedom;
- section 219 of the Labour Code, which provides that, in the process of registering the union, the employer shall certify that the founding members are employees, so as to ensure that the list of the applicant union’s members is not communicated to the employer;
- section 248 of the Labour Code, by eliminating the waiting period of six months required for a new attempt to establish a trade union when its registration has been denied; and

- article 47(4) of the Constitution of the Republic, section 225 of the Labour Code and section 90 of the LSC, which establish the requirement to be “a national of El Salvador by birth” in order to hold office on the executive committee of a union. The Committee also observes that the Committee on Freedom of Association drew the legislative aspects of Case No. 3117 to this Committee (see 382nd Report of the Committee on Freedom of Association, June 2017, paragraph 314), including the requirement that members of an executive committee must have attained the age of majority, as this imposition constitutes an excessive restriction of the right of the workers freely to elect their representatives.

In this respect, the Committee notes the Government’s indication that: (i) the initiatives to reform the Labour Code presented in 2015 are still under examination in the Legislative Assembly, and (ii) with regard to the amendment of the provision setting out the requirement to be “a national of El Salvador by birth” in order to hold office on the executive committee of a union, this provision is not being examined by the Legislative Assembly. Moreover, the Committee observes that the direct contacts mission expressed an interest in ILO technical assistance by members of the Legislative Assembly, including in relation to the Labour Code reform. ***Recalling that the competent authorities may avail themselves of ILO technical assistance, the Committee requests the Government to take the necessary measures to bring the above-mentioned provisions into conformity with the Convention and hopes to be able to observe progress in the near future.***

Article 3. Freedom and autonomy of workers’ and employers’ organizations to appoint their representatives. Reactivation of the Higher Labour Council and election of representatives in autonomous official institutions. With regard to the reactivation of the Higher Labour Council (hereafter “the Council”), the Committee recalls that the failure to appoint workers’ representatives has paralysed the Council since 2013. The Committee observes the Government’s indication that: (i) on 1 May 2017, the legally registered trade union federations and confederations were asked to present their proposed representatives for the labour sector of the Council; (ii) three proposals were received: one appointing eight representatives and their substitutes, backed by eight federations and one confederation (representing 39 trade unions, 19,107 members and five collective agreements), a second that also appointed eight representatives and their substitutes, presented by 18 federations and two confederations (representing 197 trade unions, 108,779 members and 74 collective agreements) and a third appointing only one person and his substitute (representing 15 trade unions, 4,130 people and three collective agreements); (iii) in view of the conclusions of the Conference Committee, as well as the decision of the Supreme Court of Justice on this matter, the authorities took into account the criteria of membership, collective agreements and the number of trade unions represented by each proposal (as the most universal representativeness criteria) and proceeded to request appointments proportional to the statistics on these criteria: the organizations that presented the first proposal were invited to appoint five representatives and their substitutes; those that presented the second proposal were invited to appoint two representatives and their substitutes; and those that presented the third proposal were invited to appoint one representative and a substitute; (iv) the federations and confederations that presented the first and third proposal put forward their representatives – however, the federations and confederations that presented the second proposal (including the CNTS and those that had presented a complaint on this matter to the Committee on Freedom of Association in 2013 under Case No. 3054) did not put forward a proposed appointment; (v) the employers’ representatives and the Government made their respective appointments; (vi) on 28 June, the employers’ and workers’ representatives were invited to the Office of the Minister of Labour and Social Welfare (President of the Council under its regulations), but only the workers’ representatives came; (vii) in the framework of the direct contacts mission, the members of the three sectors were invited to the inaugural meeting of the Council on 6 July 2018 – however, the employers’ sector did not attend, arguing that it did not agree with the appointment mechanism of the workers’ sector; (viii) although the Government has taken all the initiatives required to reactive the Council, these initiatives have not produced the expected positive results; (ix) in December 2017, the Government asked the ILO for assistance in this regard; (x) as a result of the technical assistance of the Office, various workshops were held in June and July 2018 with the three sectors in order to analyse possible ways to revise the rules of the Council; and (xi) the Government hopes that, as a result of the cooperation under way, consensus on the revision of the rules can be identified in order to address the causes of the inactivity in this tripartite entity. Moreover, the Committee observes that although the direct contacts mission noted the measures indicated by the Government, it also observed that certain social partners questioned the legality of the procedure for the appointment of members and for convening the Council, alleging in particular irregularities in procedure and undue interference by the Government in the determination of the criteria and the final composition of the representatives of the workers’ sector. In this connection, the Committee notes the recommendation of the direct contacts mission, recalling the importance of effective consultation with the confederations and federations concerned for the determination of stable election procedures with precise, objective, and pre-established representativeness criteria, while also recognizing the Government’s responsibility to take measures within its remit to ensure the functioning of the Council. Furthermore, the Committee takes due note of the conclusions of the Conference Committee of June 2018 on the application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), relating to the reactivation of the Council. ***The Committee firmly hopes that the Government, in consultation with the most representative organizations and with the technical assistance of the Office, will take all the additional measures required for the adoption of precise, objective, and pre-established representativeness criteria for the appointment of the workers’ sector of the Council, with a view to ensuring the full reactivation of this tripartite body as soon as possible. The Committee requests the Government to report any developments in this respect.***

With regard to the direct appointment by the President of the Republic of the employers' representatives to the joint or tripartite bodies of 19 autonomous institutions, following the adoption on 22 August 2012 of 19 legislative decrees, the Committee observes the Government's indication that: (i) the 19 laws in question were declared unconstitutional on procedural grounds (the urgency of their adoption had not been justified); (ii) as a result, there has been a return to the previous legislative situation and, since there is no new legislative initiative envisaged in this regard, there have been no tripartite consultations on this matter; and (iii) the ruling of unconstitutionality has not affected the existing appointments to the executive committees of the autonomous official institutions concerned, meaning that the previous legislative regime will be applied only when the members of the relevant executive committees are next appointed. Moreover, the Committee observes that, according to the report of the direct contacts mission: (i) on the one hand, representatives of ANEP have continued to report persistent interference by the Government in the appointment proceedings for its representatives and for its members in public institutions, even after the laws in question were declared unconstitutional; and (ii) on the other, the Legal Secretariat of the Cabinet reported that, when modernizing state institutions, due consideration would be given to the explanations provided by the direct contacts mission in relation to ILO standards on respect for the autonomy of employers' and workers' organizations in the free election of their representatives, and it invited any organization concerned to come forward with any pending allegations of interference so that the matter may be resolved. ***The Committee invites the Government, in consultation with the employers' and workers' organizations concerned to take all the measures required to ensure, both in law and in practice, full respect for the autonomy of employers' and workers' organizations in the appointment of their representatives, including in the public bodies in which they participate, and reminds the Government that it may avail itself of the technical assistance of the Office in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Equatorial Guinea

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2001)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2012.

The Committee again recalls that it has been asking the Government for a number of years to: (i) amend section 5 of Act No. 12/1992, which provides that employees' organizations may be occupational or sectoral – so that workers may, if they so desire, establish enterprise trade unions; (ii) amend section 10 of Act No. 12/1992, which provides that for an occupational association to obtain legal personality it must, inter alia, have a minimum of 50 employees – so as to reduce the number of workers required to a reasonable level; (iii) confirm that, as a result of a revision of the Fundamental Act in 1995 (Act No. 1 of 1995), the right to strike is recognized in public utilities and is exercised under the conditions laid down by law; (iv) provide information on the services deemed to be essential, and on how the minimum services to be ensured are determined, as provided for in section 37 of Act No. 12/1992; and (v) state whether public servants who do not exercise authority in the name of the State enjoy the right to strike (section 58 of the Fundamental Act).

The Committee again urges the Government to take the necessary steps to amend the legislation in order to bring it into full conformity with the provisions of the Convention and to send information in its next report on any measures taken or contemplated in this respect. The Committee expresses the strong hope that the Government will take all possible steps without delay to resume a constructive dialogue with the ILO.

Furthermore, the Committee had noted the comments of the International Trade Union Confederation (ITUC) on the application of the Convention and the persistent refusal to register various trade unions, namely the Trade Union of Workers of Equatorial Guinea (UST), the Independent Services Union (SIS), the Teachers' Trade Union Association (ASD) and the Agricultural Workers' Organization (OTC). The Committee recalls once again that the discretionary power of the competent authority to grant or reject a registration request is tantamount to the requirement for previous authorization, which is not compatible with *Article 2 of the Convention* (see the 1994 General Survey on freedom of association and collective bargaining, paragraph 74). ***Under these conditions, the Committee once again urges the Government to register without delay those trade unions which have fulfilled the legal requirements and to provide information in this respect in its next report.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2001)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2012.

Article 4 of the Convention. Collective bargaining. The Committee noted the previous comments by the International Trade Union Confederation (ITUC), on the repeated refusal to recognize a number of trade unions, namely the Workers' Union of Equatorial Guinea (UST), the Independent Service Union (SIS), the Teachers' Trade Union Association (ASD) and the Rural Workers' Organization (OTC), and the lack of a legal framework for the development of collective bargaining. The Committee again stresses that the existence of trade unions established freely by workers is a prerequisite for the application of the Convention. ***The Committee urges the Government once again to adopt the necessary measures without delay to create appropriate conditions for the establishment of trade unions that are able to engage in collective bargaining with a view to regulating conditions of employment.***

Article 6. Right of public servants not engaged in the administration of the State to engage in collective bargaining. The Committee notes that, according to ITUC's comments, the right of workers in the public administration to establish trade unions

has still not been recognized in law, despite the fact that section 6 of the Act on trade unions and collective labour relations, No. 12/1992, provides that the right to organize of employees in the public administration shall be regulated by a special law. The Committee notes that the ITUC also indicates that the legal framework for collective bargaining is deficient and ambiguous. **The Committee urges the Government to indicate whether a special law has been adopted and whether it establishes the right to organize and to collective bargaining of workers in the public administration, and asks it to send detailed information on the application of the Convention to public servants not engaged in the administration of the State. The Committee reminds the Government that it may seek technical assistance on this matter from the Office, and expresses the firm hope that it will take without delay all measures within its reach to resume constructive dialogue with the ILO.**

Application of the Convention in practice. **The Committee asks the Government to send statistics of the number of employers' and workers' organizations, the number of collective agreements concluded with these organizations and the number of workers and the sectors covered.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Eritrea

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

Civil liberties. In its previous comments, the Committee requested the Government to provide information on how it ensures the rights of trade unions to organize their administration and activities and to hold public meetings and demonstrations in practice. In this respect, the Government reiterates earlier statements regarding provisions available under the Labour Proclamation of 2001, and indicates that in March 2017, the National Confederation of Eritrean Workers (NCEW) held its seventh congress and elected its representatives in full freedom. Furthermore, a basic workers' association was recently established in Bisha Mining Share Company, where the parties were engaged in a process of collective bargaining. The Government indicates that the latter development demonstrates that the NCEW has extended its coverage to new sectors. While taking note of this information, the Committee **regrets** that the Government provides no information on any measures taken in the last several years to ensure protection for the exercise of the right to hold demonstrations and public meetings in law and in practice. **Recalling that the right of trade unions to hold public meetings and demonstrations is an essential aspect of freedom of association, the Committee reiterates its request.**

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations. Compulsory national service. The Committee notes that pursuant to sections 19 and 30 of the National Service Proclamation (No. 82/1995), those performing work within the framework of national service are subject to martial law and regulations and that section 3 of the Labour Proclamation excludes members of the military, police and security forces from the scope of the labour law. The Committee further notes the discussions that took place in the Conference Committee for the Application of Standards (CAS) concerning the application of the Forced Labour Convention, 1930 (No. 29), and its 2015 and 2018 conclusions which make reference to large-scale and systematic practice of imposing compulsory labour on the population for an indefinite period of time within the framework of programmes related to the obligation of national service. This practice has also been reported extensively by the Commission of Inquiry on Human Rights in Eritrea established by the United Nations Human Rights Council, as well as the Special Rapporteur on the Situation of Human Rights in Eritrea (Special Rapporteur) appointed by the same Council. The Committee notes with **deep concern** that large numbers of Eritrean nationals have been denied the right to organize for indefinite periods of their active life while they were forced to perform work as part of their obligation of compulsory national service. The Committee recalls that the exception in *Article 9(1)* of the Convention is justified on the basis of the responsibility of the police, security and armed forces for the external and internal security of the State. This exception must be construed in a restrictive manner, so as to apply only to purely military and policing functions and not to the whole active population mobilized for work in non-military areas as diverse as agriculture, construction, civil administration and education for indefinite periods of time under martial law that denies them the right to organize. **In view of the above considerations, and noting the end of "no war no peace situation" that had lasted since the 1998–2000 border war with Ethiopia and the formal restoration of relations between the two countries in July 2018, the Committee urges the Government to end the general mobilization of the population for indefinite periods of time under martial law and to revoke or amend the National Service Proclamation accordingly, so as to ensure that Eritrean nationals are not denied the right to organize beyond the legally restricted period of military service, during which they would perform work of purely military character.**

Civil Servants. The Committee recalls that in its 2014 observation, it had observed with concern that the Government had been referring to the imminent adoption of the Civil Servants' Proclamation for the last 12 years, and had urged the Government to take all the necessary measures to expedite the adoption process of the Proclamation so as to grant without further delay the right to organize to all civil servants in accordance with the Convention, and that it repeated the same observation with concern in 2016 and 2017. The Committee notes with **deep concern** that the Government once again indicates that the drafting process of this Act is still at its final stage for approval. In this respect, the Committee notes that in her latest report, the Special Rapporteur informed the UN Human Rights Council that there was still no parliament in Eritrea where laws could be discussed and questions of national importance debated (A/HRC/38/50 of 25 June 2018, paragraph 28). The Committee is bound to note that the institutional standstill described in the Special Rapporteur's report does not favour the imminent adoption of new legislation. **Recalling that civil servants,**

like all other workers with the only exception of armed forces and the police, should enjoy the right to establish and join organizations of their own choosing, the Committee urges the Government to take all the necessary measures to ensure that the adoption process of the Civil Servants' Code is concluded and the right to organize is guaranteed to all civil servants without further delay. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard.

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 2000)***

Legislative issues. The Committee recalls that since its first examination of the application of the Convention in Eritrea in 2002 it had focused on a number of legislative issues and requested the Government to amend the legislation or adopt additional laws and regulations in order to address the following matters:

- *Articles 1 and 2 of the Convention. Protection against anti-union discrimination and acts of interference.* The Committee had noted that the 2001 Labour Proclamation does not provide for an adequate protection against anti-union discrimination and acts of interference in terms of period of protection, the persons protected and the sanctions and remedies provided in law, and had requested the Government to amend the Proclamation so as to strengthen the protection against anti-union discrimination and acts of interference.
- *Articles 1, 2 and 4. Domestic workers.* The Committee had noted that the Labour Proclamation does not explicitly grant the rights set out in the Convention to domestic workers as section 40 thereof entitles the Minister to determine by regulation the provisions of the Proclamation that apply to these workers. The Committee had expressed the hope that the guarantees enshrined in the Convention will soon be explicitly afforded to domestic workers by way of a regulation.
- *Article 6. Public sector.* The Committee had noted that the civil servants in the Central Personnel Administration who are not engaged in the administration of the State are excluded from the scope of the Labour Proclamation and had requested the Government to explicitly recognize their rights to protection against anti-union discrimination and acts of interference, as well as their right to negotiate collectively their conditions of employment in the new Civil Service Proclamation.

The Committee notes that the Government: (i) recognizes that legislative measures should be taken as requested by the Committee in order to ensure adequate protection against anti-union discrimination and acts of interference but that the amendment process has not yet been finalized and the Ministry of Labour and Human Welfare intends to conduct a tripartite workshop aiming at finalizing the drafting process; (ii) with regard to domestic workers, indicates that giving effect to section 40 of the Labour Proclamation requires sufficient time and skill, and the new Civil Code contains certain provisions linked with the rights of domestic workers servants under the Convention, without however providing the text of the relevant provisions of the new Civil Code; and (iii) states that the draft Public Service Code has not been enacted yet either. The Committee notes that the Government replies concerning the legislative issues highlighted in the Committee's comments reveal institutional shortcomings that have hindered the conclusion of drafting and enactment process of new legislation for many years. The Committee notes in this regard that the United Nations Commission of Inquiry on Human Rights in Eritrea had found that "since there is no legislation that regulates law-making procedures, codes, decrees and domestic legislation is prepared and adopted in the absence of a clear, transparent, consultative and inclusive process. Nobody really knows the procedure leading to the enactment of legislation or the author of a specific decree" (A/HRC/29/CRP.1, 5 June 2015, paragraph 299). The Committee further notes that in her latest report, the Special Rapporteur on the Situation of Human Rights in Eritrea, appointed by the United Nations Human Rights Council, informs the Council that there is still no parliament in Eritrea where laws could be discussed and questions of national importance debated (A/HRC/38/50, 25 June 2018, paragraph 28). The Committee notes that the institutional standstill described in the Special Rapporteur's report does not favour the imminent adoption of new legislation. ***The Committee therefore urges the Government to take all the necessary measures so that the processes of drafting and enacting new legislation with a view to ensuring the conformity of Eritrean law with the Convention can be successfully brought to conclusion. The Committee further encourages the Government to seek the technical assistance of the Office with a specific focus on the issues raised in this observation.***

Articles 4, 5 and 6. Promotion of collective bargaining. Compulsory national service. The Committee notes that pursuant to articles 19 and 30 of the National Service Proclamation (No. 82/1995), the Eritrean nationals performing work within the framework of national service are subject to martial law and regulations and that article 3 of the Labour Proclamation of Eritrea excludes members of the military, police and security forces from the scope of labour law. The Committee notes that it stems from the conjunction of the different provisions mentioned that the persons performing work within the national service are not covered by the Labour Proclamation provisions related to collective bargaining. The Committee further notes the discussions that took place in the International Labour Conference Committee for the Application of Standards (CAS) concerning the application of Forced Labour Convention, 1930 (No. 29), and the conclusions of the CAS in this regard in June 2015 and 2018 respectively, where reference was made to a systematic and large-scale practice of requiring Eritrean citizens to perform work for an indefinite period of time within the framework of

programmes related to the obligation of national service involving numerous civilian activities such as construction and agriculture. The Committee recalls that the only restrictions to the scope of application of the Convention refer to the armed forces and the police as well as to the public servants engaged in the administration of the State (*Articles 5 and 6 of the Convention*). The Committee further highlights that the exception in *Article 5* of the Convention, like the one embodied in *Article 9* of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), is justified on the basis of the responsibility of the police and armed forces for the external and internal security of the State. This exception must therefore be restrictively interpreted, applying only to purely military and policing functions. As a result, persons engaged, under martial law, in activities such as agriculture, construction, civil administration and education that do not fall within military or policing activities or the administration of the State should be able to bargain collectively their conditions of employment. In view of the above legal and factual considerations, the Committee notes with **concern** that large numbers of Eritrean nationals are being denied the right to collective bargaining for indefinite periods of their active life while they are performing civilian activities that fall under the scope of the Convention as part of their obligation of compulsory national service. ***Noting the end of the “no war no peace situation” enduring since the 1998–2000 border war with Ethiopia and the formal restoration of relations between the two countries in July 2018, the Committee urges the Government to take the necessary measures so as to ensure that Eritrean nationals are not denied the right to bargain collectively beyond the scope of the exceptions set out in Articles 5 and 6 of the Convention.***

Promotion of collective bargaining in practice. The Committee requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements.

Eswatini

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1978)

The Committee notes the observations received on 1 September 2016 and 1 September 2018 from the International Trade Union Confederation (ITUC) concerning the application of the Convention in practice. The ITUC denounces: (i) police violence and disruption against peaceful demonstrations in August 2017, July and August 2018, and the arrest and detention of union leaders after these demonstrations; (ii) dismissal of union leaders for their participation in a strike action in the sugar industry; and the refusal of two companies in the textile industry to recognize company unions affiliated to the Amalgamated Trade Unions of Swaziland (ATUSWA). The Committee is of the view that the exercise of trade union rights is incompatible with violence or threats of any kind. It is therefore important that all allegations of violence against workers who are organizing or otherwise defending workers' interests be thoroughly investigated with a view to establishing the facts, determining violations and responsibilities, punishing the perpetrators and preventing the recurrence of such acts. In this regard, the Committee duly notes the detailed comments provided by the Government in reply to the allegations explaining the particular circumstances of the intervention of the security forces in each instance and indicating that in some cases the unions had subsequently resorted to the Conciliation Mediation and Arbitration Commission (CEMAC) and the Industrial Court. The Committee also notes the Government's statement that relations between the Government and the labour movement have improved in the past two years courtesy of the promulgation of the Code of Good practice for managing industrial and protest actions (2015), the Code of Practice on gatherings (2017) and the Public Order Act (2017), respectively, and the ongoing process of disseminating these codes through various workshops among key stakeholders, including the social partners, the police, the correctional services staff, municipal councils, etc., with the technical assistance of the Office. ***The Committee requests the Government to provide follow-up information with regard to the outcome of the legal and mediation proceedings mentioned and trusts that the new dynamic described by the Government will contribute to a conducive climate free from violence, pressure and threats of any kind on the occasion of peaceful demonstrations by workers. It requests the Government to continue to provide detailed information on measures taken in this regard.***

Articles 2, 3 and 5 of the Convention. Registration of workers' and employers' federations. In its previous comments, the Committee had requested the Government to indicate the steps taken to register ATUSWA following the adoption by Parliament of the Industrial Relations (Amendment) Act, 2014. The Committee notes with **interest** that the registration of ATUSWA was finalized in May 2016 by the issuance of the certificate of registration.

Legislative issues. The Committee recalls that for many years it has been requesting the Government to amend a number of legal texts which gave rise to practices which unduly restricted trade union demonstrations and other trade union activities, contrary to the Convention. It also recalls that since 2011 the Government has benefited from the technical assistance of the Office to review the provisions of these legal texts and adopt the necessary amending provisions with a view to ensuring that the legislation is used in full conformity with the Convention. The Committee takes note with **satisfaction** that the Government engaged in meaningful consultation with the social partners leading to the enactment of the following texts: (i) the Suppression of Terrorism (Amendment) Act (Act No. 11 of 2017 published in the Government Gazette of 8 August 2017); (ii) the Public Order Act (Act No. 12 of 2017 published in the Government Gazette of 8 August 2017); (iii) The Correctional Services Act (Act No. 13 of 2017 published in the Government Gazette of 31 October 2017); and (iv) The Public Service Act (No. 5 of 2018 published in the Government Gazette of 22 February

2018). In particular, the Committee notes with *satisfaction* that the Correctional Services Act recognizes the right to organize for the members of the Correctional Services and thus to prison staff (section 112 of the Act), and provides that the process of registration, monitoring and regulation of their staff association shall be governed by the relevant provisions of the Industrial Relations Act (section 113). *More generally, the Committee acknowledges this significant progress and trusts that the Government will pursue its efforts towards ensuring that these new legal texts are implemented with a view to guarantee the exercise of trade union rights in full conformity with the principles enshrined in the Convention.*

The Committee is raising other matters in a request addressed directly to the Government.

Fiji

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2002)

The Committee notes the observations from the Fiji Trades Union Congress (FTUC) received on 19 October 2017 and 23 August 2018 and requests the Government to reply in detail to the matters raised therein.

In its previous comments, the Committee took note of the Joint Implementation Report (JIR) signed by the Government, the FTUC and the Fiji Commerce and Employers' Federation (FCEF) on 29 January 2016 giving rise to the closure of the procedure invoked under article 26 of the ILO Constitution. The Committee requested the Government to continue to provide information on the developments in relation to the follow-up given to the JIR and the 2016 amendment of the Employment Relations Promulgation (ERP). In light of the information provided in the Government's November 2017 report and the allegations raised by the FTUC of significant and persistent lack of progress in implementing the JIR, continuing harassment and intimidation of trade unionists, and violations of fundamental human rights, the Committee has decided to examine this Convention outside of the reporting year.

The Committee notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2723 drawing the legislative aspects of the case to the attention of the Committee of Experts (381st and 386th Reports, paragraphs 36–55 and 18–38) and observes that a number of the factual allegations raised by the FTUC have been addressed within the framework of the Committee on Freedom of Association's examination.

Trade union rights and civil liberties. In reply to its previous comments, the Committee notes with *interest* that all remaining charges against trade union leaders and members, including Mr Nitendra Goundar, a member of the National Union of Hospitality, Catering and Tourism Industries Employees, have been dropped. The Committee notes with *concern* however the FTUC's allegations that harassment and intimidation of trade unionists continues, in particular with respect to its National Secretary, Felix Anthony. *It requests the Government to respond in full detail in this regard.*

Legislative issues

The Committee notes from the Government's 2017 report that the Employment Relations Advisory Board (ERAB) met regularly to review the labour laws as agreed under the JIR and that on 27 October 2017, it agreed to circulate its views within two weeks on the workers' and employers' positions with a subcommittee to meet in the first week of December 2017 for a detailed examination. The Government's report indicates that, subsequently, the ERAB would meet every other month.

The Committee observes, however, the FTUC's claim in its 2018 communication that despite the signing of the JIR, the Government has not engaged in good faith to amend the legislation to bring it into conformity with the Convention, and that the ERAB has not held meetings as agreed and has now been shut down without any review of the legislation or legislative amendment. Moreover, according to the FTUC, legitimate union activities like organizing demonstrations, holding meetings and resolving disputes have become difficult, if not impossible.

As regards the composition of the ERAB, the Committee recalls that its previous comments referred to the right of representative national workers' and employers' organizations to participate in national tripartite bodies, and to nominate delegates to international bodies and that it requested the Government to provide information on the composition of the ERAB and the Arbitration Court, and to explain the manner in which the representative national workers' and employers' organizations have been able to determine their representatives. The Committee notes the Government's indication that the Minister for Employment had appointed additional members to the ERAB so as to ensure that all sectors of the social partners were widely represented and that the nominations to the Arbitration Court included nominations for the FCEF and the FTUC. The Committee notes with *concern*, however, the allegations of the FTUC that the Government has systematically dismantled tripartism by removing and/or replacing the tripartite representation on a number of bodies (including the ERAB, the Fiji National Provident Fund, the Fiji National University Training at the Productivity Authority of Fiji, the Air Terminal Service and the Wages Councils) with its own nominees. *Recalling the role of representative national workers' and employers' organizations in determining representatives on national bodies, the Committee requests the Government to provide detailed information on the manner in which it designated individuals from membership on these bodies and the representative nature of the organizations that now appear on these bodies.*

More generally, the Committee notes with *regret* that there has apparently been no progress on the review of the labour legislation as agreed in the JIR. *With reference to its comments below, the Committee urges the Government to*

take all necessary measures, including the reconvening of the ERAB, with a view to rapidly bringing the legislation into line with the Convention.

Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing. The Committee had previously noted that the following issues were still pending after the adoption of the Employment Relations (Amendment) Act 2016: denial of right to organize to prison guards (section 3(2)); and excessively wide discretionary power of the Registrar in deciding after consultation whether or not a union meets the conditions for registration under the ERP (section 125(1)(a) as amended). **The Committee urges the Government to review the abovementioned provisions, in accordance with the agreement in the JIR and in consultation with the representative national workers' and employers' organizations, with a view to their amendment, so as to bring the legislation into full conformity with the Convention.**

Article 3. Right of organizations to elect their representatives in full freedom, organize their activities and formulate their programmes. The Committee had previously observed that, pursuant to section 185 of the ERP as amended in 2015, the list of industries considered as essential services now includes the services listed in Schedule 7 of the ERP, the essential national industries declared under the former ENID and the corresponding designated companies, as well as the whole of the public service (that is government, statutory authorities, local authorities and government commercial companies). The Committee had welcomed the agreement with the JIR in which the tripartite partners agreed to invite the Office to provide technical assistance and expertise to assist the ERAB to consider, gauge and determine the list of essential services and industries and requested the Government to supply information on any developments regarding the modification of the list of essential services. **Observing that the Government has indicated its interest in the technical assistance of the Office in this regard, the Committee trusts that the necessary assistance will be provided without delay and requests the Government to inform on any developments in this regard.**

The Committee also wishes to refer to the following issues in the ERP that were still pending and upon which the Government has not provided any information: obligation of union officials to be employees of the relevant industry, trade or occupation for a period of not less than three months (section 127(a) as amended); prohibition of non-citizens to be trade union officers (section 127(d)); interference in union by-laws (section 184); excessive power of the Registrar to request detailed and certified accounts from the treasurer at any time (section 128(3)); provisions likely to impede industrial action (sections 175(3)(b) and 180); and compulsory arbitration (sections 169 and 170; section 181(c) as amended; new section 191BS (formerly 191(1)(c)); and penalty in form of a fine in case of staging an unlawful but peaceful strike (sections 250 and 256(a)); provisions likely to impede industrial action (section 191BN); penalty of imprisonment in case of staging a (unlawful or possibly even lawful) peaceful strike in services qualified as essential (sections 191BQ(1), 256(a), 179 and 191BM); excessively wide discretionary powers of the Minister with respect to the appointment and removal of members of the Arbitration Court and appointment of mediators, calling into question the impartiality of the dispute settlement bodies (sections 191D, 191E, 191G and 191Y); compulsory arbitration in services qualified as essential (sections 191Q, 191R, 191S, 191T and 191AA). **The Committee once again requests the Government to take measures to review the abovementioned provisions of the ERP, in accordance with the agreement in the JIR and in consultation with the representative national workers' and employers' organizations with a view to their amendment, so as to bring the legislation into full conformity with the Convention.**

Public Order (Amendment) Decree (POAD). With regard to its previous comments concerning the practical application of the POAD, the Committee notes the FTUC's allegations that permission for union meetings and public gatherings continues to be arbitrarily refused. **It once again requests the Government to take the necessary measures to bring section 8 into line with the Convention by fully repealing or amending this provision so as to ensure that the right to assembly is freely exercised and to provide detailed information in reply to the FTUC's allegations.**

Political Parties Decree. The Committee recalls that, in its previous comments, it had noted that, under section 14 of the 2013 Political Parties Decree, persons holding an office in any workers' or employers' organization are banned from membership or office in any political party and from any political activity, including merely expressing support or opposition to a political party; and that sections 113(2) and 115(1) of the Electoral Decree prohibit any public officer from conducting campaign activities, and any person, entity or organization that receives any funding or assistance from a foreign government, intergovernmental or non-governmental organization to engage in, participate in or conduct any campaign (including organizing debates, public forums, meetings, interviews, panel discussions, or publishing any material) that is related to the election; and had requested information in this regard.

The Committee notes the Government's reiteration that it has undertaken reforms including of the voting system to create transparent rules of governance and that these provisions seek to ensure the political neutrality of public officers, which include trade union officers. It further notes the continuing concerns of the FTUC that these provisions have created fear among trade unionists as they have been accused of taking part in political activities when they have simply participated in union meetings while the decree itself denies the basic right of unionists to participate in political activities. **Observing that the Political Parties Decree is unduly restrictive in prohibiting membership in a political party or any expression of political support or opposition by officers of employers' or workers' organizations, the Committee once again requests the Government to take measures to amend the above provisions, in consultation with the representative national workers' and employers' organizations, with a view to their amendment.**

Gambia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2017, which contain allegations of arrests of several leaders of the Gambian National Transport Control Association (GNTCA), the death of Mr Sheriff Diba, one of the arrested leaders, while in detention, and the ban imposed on the activities of the GNTCA. *The Committee expresses concern at the gravity of these allegations and requests the Government to provide its comments thereon.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2011.

Scope of the Convention. Civil servants, prison officers and domestic workers. In its previous comments, the Committee had requested the Government to guarantee that the rights afforded by the Convention were ensured for prison officers, domestic workers and civil servants not engaged in the administration of the State. The Committee noted with regret that the new Labour Act did not apply to the abovementioned categories of workers (section 3(2)). The Committee recalled that only the armed forces, the police and public servants engaged in the administration of the State can be excluded from the guarantees of the Convention. The Committee notes that the Government had indicated that the right to collective bargaining under Part XIII of the Labour Act is a communal right guaranteed to all workers. The Committee observes that although prison officers, domestic workers and civil servant are excluded from the application of the Labour Act, section 3(3) entitles the Secretary of State to extend the Act's application by an order published in the gazette, to any excluded category of workers. *The Committee therefore requests the Government to indicate if the excluded employees under section 3(2) of the Labour Act are afforded the rights to collective bargaining under Part XIII of the Labour Act as a result of an order published in the gazette by the Secretary of State and if so, to provide a copy of the said Order. The Committee also requests the Government to indicate how these categories of workers are afforded adequate protection against acts of anti-union discrimination and interference, in accordance with Articles 1 and 2 of the Convention.*

Article 4. Measures to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or their organizations and workers' organizations. In its previous comments, the Committee had noted that according to section 130 of the Act, in order to be recognized as a sole bargaining agent, a trade union should represent a certain percentage of employees under a contract of service (30 per cent in the case of a single union and at least 45 per cent if the establishment in question employs at least 100 people; in this case, the bargaining agent could be composed of two or more trade unions). The Committee recalled that where, under a system for nominating an exclusive bargaining agent, there is no union representing the required percentage to be so designated, collective bargaining rights should not be denied to other unions in the unit, at least on behalf of their own members. The Committee further noted that section 131 of the Act provides that an employer may, if he or she wishes, organize a secret ballot to establish a sole bargaining agent. The Committee recalled that the organization of a ballot for determining representativeness should be carried out by the authorities or an independent party upon a request presented by a union. The Committee requested the Government to take the necessary measures in order to bring the legislation into conformity with the Convention in accordance with the abovementioned principles. The Committee noted the Government's indication that the Department of Labour is in consultation with the Central Government for amendments to be tabled before Parliament for approval. *The Committee requests the Government to provide information on any development in this regard.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Greece

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

The Committee notes the detailed observations provided by the Greek General Confederation of Labour (GSEE) received on 1 November 2018. The Committee takes note of the Government's response to the previous comments made by the GSEE, the International Trade Union Confederation (ITUC), the International Transport Workers' Federation (ITF) and the Panhellenic Seamen's Federation (PNO). *It requests the Government to reply in detail to the most recent communication from the GSEE.*

With regard to the previous comments related to civil mobilization orders in the maritime sector, clashes with the police forces during a protest action in a shipyard and the arrest and charges brought against 12 trade unionists, the Committee notes with *interest* the information provided by the Government that the civil mobilization legislation was amended by Law 4325/2015 prohibiting civil mobilization or requisition as a measure against strikes or other relevant forms of mobilization used by freelance professionals or own-account workers. The Government adds that this enables pertinent procedures during periods of peace only for immediate defence needs of the country or urgent social needs deriving from any form of endangered natural disaster or posing danger to public health. The Government describes in

detail the precautions taken with respect to the civil mobilization order issued in 2013 and indicates that the competent judicial authority declared the trade union defendants in the case not guilty. The Government stresses that since then it refrains from issuing civil mobilization orders and the functioning of the domestic maritime network was eventually restored by intensifying social dialogue and through extensive consultations with the PNO and all the competent authorities.

The Committee further notes the detailed information provided by the Government in relation to recent legislative developments, in particular as regards Law 4472/2017 on paid and unpaid leave and facilities to be granted for trade union activities in the public and private sectors and on the rapid settlement of disputes in cases where an employer is in default of acceptance of work or payment of wages due to a strike.

Article 3 of the Convention. Right of workers' organizations to organize their activities and formulate their programmes. The Committee notes the Government's reply to the concerns raised by the GSEE in relation to the representation and activities of the manpower agency (OAED) which had become the full successor to the Workers' Social Fund and the Workers' Housing Organization providing trade union financing on the basis solely of workers' contributions. In particular, the Committee notes the details provided concerning the social policy account established under the OAED which remains fully distinct and has full administrative independence, subject to separate monitoring and audit. This financing process aims at providing unhindered support to the labour force for collective action and organization with a view to improving their standard of living.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1962)***

The Committee takes note of the detailed observations provided by the International Organisation of Employers (IOE) and the Hellenic Federation of Enterprises and Industries (SEV) in a communication received on 31 August 2018. *The Committee further notes the detailed observations provided by the Greek General Confederation of Labour (GSEE) received on 1 November 2018 and requests the Government to reply in detail.*

Follow-up to the conclusions of the Committee on the Application of Standards ***(International Labour Conference, 107th Session, May–June 2018)***

The Committee notes the conclusions of the Committee on the Application of Standards (hereafter "Conference Committee") at the 107th International Labour Conference (June 2018). It notes that the Conference Committee had expressed concern regarding the Government's submission related to the compulsory arbitration system and the decision of the Council of State concluding that the provision in Act No. 4046, which provided for the suppression of unilateral recourse to compulsory arbitration, was unconstitutional. The Conference Committee also expressed concern regarding the Government's failure to provide a report to the Committee of Experts in time for its previous session in November 2017. Taking into account the Government's submissions and the discussion that followed, the Conference Committee urged the Government to: (i) ensure that unilateral recourse to compulsory arbitration as a way to avoid free and voluntary collective bargaining is employed only in very limited circumstances; (ii) ensure that public authorities refrain from acts of interference, which restrict the right to free and voluntary collective bargaining, or impede its lawful exercise; (iii) provide information on the number of collective agreements signed, the sectors concerned and the number of workers covered by these collective agreements; (iv) provide information and statistics related to complaints of anti-union discrimination and any remedial action taken; (v) avail itself of ILO technical assistance to ensure the implementation of these measures; and (vi) report to the Committee of Experts on the implementation of these recommendations before its session in November 2018.

Article 4 of the Convention. Promotion of collective bargaining. The Committee recalls that its previous comments concerned the Council of State decision finding that the provision in Act No. 4046 of 14 February 2012, which provided for the suppression of unilateral recourse to compulsory arbitration, was unconstitutional. The Committee trusted that the measures taken by the Government to respond to this decision would fully take into account its previous considerations that as a general rule, legislative provisions which permit either party unilaterally to request compulsory arbitration for the settlement of a dispute does not promote voluntary collective bargaining and is thus contrary to the Convention. The Committee notes the concerns expressed by the SEV that the Government has ignored its proposals to consider amendments that would significantly reduce the existing distortion and be more in line with international labour standards as an interim measure until an opportunity to settle the matter at the level of the Constitution or its interpretation could be found.

The Committee notes that the Government refers to recent amendments made to Law 1876/1990 brought about through Law 4549/2018 which favours autonomous resolution of disputes during mediation and enables a unilateral request for arbitration to be taken only by the party that has accepted the mediation proposal where the other party has rejected it. The Government affirms that the fundamental principle of the Greek mediation and arbitration system is that the social partners themselves may specify conditions for having recourse to it and the provisions of the law on mediation and arbitration only apply when there has been no such agreement. The Government emphasizes that mediation has only an auxiliary function and the vast majority of collective regulations are resolved by mutual consent of the parties. In order to strengthen the principle of good faith, under Law 4549/2018, the right to unilateral recourse to arbitration is granted in only two cases: (i) on the initiative of any party where the other has refused mediation; and (ii) on the initiative of any

party that accepted the mediation proposal which was rejected by the other party. Previously it had not been necessary to accept the mediation proposal in order to be able to have unilateral recourse to arbitration. According to the Government, unilateral recourse to arbitration is thus only granted as a last resort only to the parties that have exhausted all efforts of good-faith behaviour and demonstrated willingness to consent. The Government adds that Law 4549/2018 explicitly introduces the evolution of purchasing power of wages among the considerations for a mediation proposal or arbitral award in order to respond to living costs that have frequently adversely affected the purchasing power of workers. The Government states that the above changes were made after intensive social dialogue with the social partners on the basis of an extensive study on the evolution of the arbitration system since the entry into force of Law 1876/1990. The Government adds that these changes are in compliance with the decision of the Greek Supreme Court which had ruled that the institution of unilateral recourse to arbitration as an auxiliary mechanism for the resolution of collective disputes is guaranteed and prescribed under the Greek Constitution, while the scope of this right has been restricted, stressing the importance of good faith behaviour. To demonstrate the infrequent use of the arbitration mechanism, the Government provides statistics from the period 2010–17 in which 3,506 collective regulations were signed with 96.38 per cent being labour collective agreements and 3.62 per cent being arbitral awards.

The Committee recalls that compulsory arbitration in the case that the parties have not reached agreement is generally contrary to the principles of collective bargaining. In the Committee's opinion, compulsory arbitration is only acceptable in certain specific circumstances, namely: (i) in essential services in the strict sense of the term, that is those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; (ii) in the case of disputes in the public service involving public servants engaged in the administration of the State; (iii) when, after protracted and fruitless negotiations, it becomes obvious that the deadlock will not be broken without some initiative by the authorities; or (iv) in the event of an acute crisis (see 2012 General Survey on the fundamental Conventions, paragraph 247). The Committee takes due note of the efforts made by the Government to further restrict recourse to compulsory arbitration within the framework of Law No. 4549/2018, taking into account the constitutional rules by which it is bound. ***The Committee nevertheless trusts that the Government will continue to engage with the social partners, both during its review of the law and within the context of the constitutional reform, to bring this mechanism into full compliance with the obligation to promote free and voluntary collective bargaining by eliminating, except in the cases described above, the possibility of a single party to have recourse to compulsory arbitration if the other party rejects the mediation proposal. It requests the Government to provide detailed information in this regard.***

As regards extension of collective agreements, the Committee notes the information provided by the SEV that the revival of the ministerial right to extend the coverage of sectoral agreements after the end of the completion of the third economic adjustment programme for Greece should bear in mind the following basic conditions: (i) a reliable methodology for ensuring the collective agreement covers at least 51 per cent of the employees; (ii) the parties to the agreement agree to the extension; and (iii) compulsory arbitration awards should be excluded from the extension mechanism. The Committee notes the Government's indication that it has issued Circular No. 3291/2175/13.06.2018 which defines the procedure to be followed to identify whether 51 per cent of the sector's workers are covered by the collective agreement before deciding whether it may be declared universally applicable under article 11.2 of Law 1876. The Government indicates that this approach has been the subject of intensive consultations and had been accepted by all social partners. Referring to a subsequent exchange of letters with the SEV, the Government indicates that the discretionary authority to declare a labour collective agreement as universally applicable is conferred solely upon the Minister of Labour.

The Committee recalls in this regard that Paragraph 5.2 of the Collective Agreements Recommendation, 1951 (No. 91), provides that: National laws or regulations may make the extension of a collective agreement subject to the following, among other, conditions: (a) that the collective agreement already covers a number of the employers and workers concerned which is, in the opinion of the competent authority, sufficiently representative; (b) that, as a general rule, the request for extension of the agreement shall be made by one or more organizations of workers or employers who are parties to the agreement; and (c) that, prior to the extension of the agreement, the employers and workers to whom the agreement would be made applicable by its extension should be given an opportunity to submit their observations.

Enterprise-level collective agreements and association of persons. The Committee recalls its previous comments concerning Act No. 4024/2011 which provided that, where there is no trade union in the company, an association of persons is competent to conclude a firm-level collective agreement. The Committee had previously expressed concern that, given the prevalence of small enterprises in the Greek labour market, the facilitation of association of persons, combined with the abolition of the favourability principle set out first in Act No. 3845/2010 and given concrete application in Act No. 4024/2011, would have a severely detrimental impact upon the foundation of collective bargaining in the country. The Committee notes the Government's indication that the favourability principle has been restored and observes the recent statistics provided according to which, in 2017, 155 firm-level collective agreements were signed with trade unions and 91 association agreements were signed with associations of persons. Twenty-six sectoral agreements and 15 occupational agreements are also in force. The Committee further notes, however, the continuing concerns of the GSEE that associations of persons still remain in detriment to democratically elected and functioning sectoral trade unions. ***Recalling the importance of promoting collective bargaining with workers' organizations and thus improving collective bargaining coverage, the Committee requests the Government to reply in detail and to indicate the steps***

taken to promote collective bargaining with trade unions at all levels, including by considering, in consultation with the social partners, the possibility of trade union sections being formed in small enterprises.

Articles 1 and 3. Adequate protection against anti-union dismissal. In its previous comments, following concerns raised by the GSEE, the Committee had requested the Government to provide information and statistics relating to complaints of anti-union discrimination and any remedial action taken. The Committee notes the information provided that, in 2017, the labour inspectorate had handled 30 complaints related to hindrances to union members to take part in union action. Twelve of these cases were resolved according to the inspectorate recommendation, while seven cases were filed and 11 were referred to the civil courts. The inspectorate also handled 22 cases of dismissals of trade union officials of which ten were resolved, ten were referred to the courts and two were handled with fines. The Government attaches great interest to such infringements and classifies them as very serious. *The Committee requests the Government to continue to provide information and statistics relating to complaints of anti-union discrimination and any remedial action taken.*

Guatemala

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1952)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2018, and the joint observations of the Autonomous Popular Trade Union Movement and the Global Unions of Guatemala, received on the same date. *The Committee notes that these observations refer to matters examined in the present comment and to complaints of violations in practice regarding which the Committee requests the Government to send its comments.*

The Committee also notes the observations of the International Organisation of Employers (IOE) and the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), both received on 1 September 2018, which refer to matters examined by the Committee in the present comment.

Lastly, the Committee notes the Government's replies to the 2017 observations of the ITUC, Autonomous Popular Trade Union Movement and the Global Unions of Guatemala. Those replies were taken into consideration by the Committee in the examination of various matters raised in this Observation.

Complaint made under article 26 of the ILO Constitution concerning non-observance of the Convention

The Committee notes that, at its 334th Session (October–November 2018), in view of the report of the Tripartite Mission which visited Guatemala from 26 to 29 September 2018, taking note, firstly, of the significant contribution of the Tripartite National Committee on Labour Relations and Freedom of Association towards a more mature and constructive social dialogue and of the agreement reached by the national tripartite constituents on the principles that should guide legislative reform aimed at ensuring conformity with ILO Conventions Nos 87 and 98; and, secondly, of the need to provide continuity to the measures adopted to ensure that the positive social dialogue process leads to a comprehensive, effective and sustainable implementation of the roadmap; and, in the light of the progress made and the issues that remain pending, the Governing Body: (i) declared closed the procedure under article 26 of the ILO Constitution concerning the abovementioned complaint; (ii) firmly called on the Government, the Guatemalan social partners and the other relevant public authorities, with the support of the IOE and the ITUC, and the technical assistance of the Office, to elaborate and adopt legislative reforms that fully comply with point 5 of the roadmap; (iii) firmly called on the Government to, together with the Guatemalan social partners, and with the technical assistance of the Office, continue to devote all the efforts and resources necessary to achieve a sustained and comprehensive implementation of the other aspects of the roadmap; (iv) established that, in line with the National Tripartite Agreement of November 2017, the Government of Guatemala shall report on the further action taken at the Governing Body sessions of October–November 2019 and October–November 2020; (v) requested the Office to implement without delay a robust and comprehensive technical assistance programme to ensure the sustainability of the current social dialogue process as well as further progress in the implementation of the roadmap; and (vi) encouraged the international community to contribute to this technical assistance programme by providing the necessary resources.

Trade union rights and civil liberties

The Committee notes with *regret* that for a number of years it has been examining, in the same way as the Committee on Freedom of Association, allegations of serious acts of violence against trade union leaders and members, including numerous murders, and the related situation of impunity. The Committee notes the information provided by the Government, both in its report on the application of the present Convention and in its reports of September and October 2018 to the Tripartite Mission and the Governing Body as part of the follow-up to the complaint submitted under article 26 of the ILO Constitution. The Committee notes firstly that, in relation to 90 cases of deaths of trade union leaders and members, registered since 2004, the Government indicates that: (i) 17 convictions were handed down in relation to 15 cases (two cases involved two rulings each); (ii) four cases ended up with acquittals rulings; (iii) one case gave rise to a judicial sentence of security and corrective measures; (iv) criminal proceedings were dropped in six cases as a result of the

death of the suspects; (v) one case was under judicial review; (vi) proceedings were at an intermediate stage in three cases; (vii) pending arrest warrants had been issued in six cases; and (viii) 54 cases were at the investigation stage. The Committee also notes the Government's indication that: (i) since 2011, the Public Prosecutor's Special Investigation Unit for Crimes against Trade Unionists has been substantially strengthened; (ii) the number of rulings handed down with respect to the deaths of trade union members has been much higher since the creation of the Special Unit; (iii) while several sentences relating to deaths of trade unionists handed down in recent years have been through the high-risk courts (specialized courts), the procedural burdens experienced in those courts is such that the referral to them of pending cases of trade unionist murders is not always the best option for ensuring prompt treatment of these cases in the courts; (iv) the application of Directive No. 1-2015 of the Public Prosecutor's Office facilitates the establishment of a possible link between the homicides and the trade union activity of the victims, and helps speed up investigations, as shown by the rapid identification of suspects in the case of the murders of Ms Brenda Marleni Estrada Tambito (assassinated in 2016) and Mr Tomas Francisco Ochoa Salazar (assassinated in 2017); (v) between August 2017 and May 2018, 17 meetings took place between the Special Investigation Unit and the Criminal Investigation Division of the National Civil Police (DEIC) with a view to analysing the various criminal acts, taking into account their trade union context; (vi) collaboration between the Public Prosecutor and the International Commission against Impunity in Guatemala (CICIG) is ongoing with respect to 12 homicides selected by the trade union movement, which has given way to an adequate transfer of investigative capacities for this type of crime; (vii) there is an ongoing willingness of the Public Prosecutor's Office to continue to exchange information with the trade union movement, whether through maintaining the Trade Union Committee or through other means, and (viii) the subcommittee for follow-up to the roadmap, which is part of the new National Tripartite Committee on Labour Relations and Freedom of Association contributes to an effective tripartite monitoring of the investigation into the deaths of trade unionists.

The Committee also notes the information provided by the Government on the protection measures afforded to members of the trade union movement who would be in a situation of risk, in which it indicates that: (i) all requests for security measures from trade unionists received by the Ministry of the Interior result in risk assessments; (ii) on the basis of those assessments, between January and July 2018, 59 perimeter security measures and one personal security measure were authorized; (iii) currently, four trade union leaders have personal security measures placed on them; (iv) the Protocol for the Implementation of Immediate and Preventive Security Measures in favour of Unionized Workers, Officers, and Trade Union Leaders, including those who advocate for the defence of labour rights, the content of which had been agreed with the trade unions, continues to apply; (v) the Department for the Assessment of Assaults on Human Rights Defenders, in which trade unions may participate, continues to operate; and (vi) the 24-hour emergency hotline to report cases of violence and threats against trade union leaders and members continues to operate.

The Committee notes, however, that the ITUC in its observations, and the Autonomous Popular Trade Union Movement and the Global Unions of Guatemala, in their observations on the application of the Convention and their reports of September and October 2018 to the tripartite mission and the Governing Body in the context of its complaint made under article 26 of the ILO Constitution, report: (i) the persistent impunity regarding the acts of violence committed against human rights defenders in general and trade unionists in particular; (ii) the lack of serious investigations by the Public Prosecutor's Office and, especially, the ongoing failure to take account of the trade union activities of the victims when investigating the motives for the murders; (iii) the subsequent lack of tangible progress with regard to the investigation of murders of trade unionists and the securing of convictions for the perpetrators, especially those cases identified as a priority by the Committee on Freedom of Association in the context of Case No. 2609 (see 382nd Report, June 2017, paragraph 339); (iv) the actions of the Government and the National Congress to put an end to the CICIG in the country even though its specific engagement is needed in the investigation of murders of trade unionists as, in many of those cases, there is significant evidence of the participation of organized groups; (v) the significant deterioration, since the establishment of the new Ministry of the Interior in January 2018, of the security measures afforded by the authorities to human rights defenders in general and trade unionists in particular; (vi) the non-renewal in 2018 of the Standing Trade Union Technical Committee on Comprehensive Protection of the Ministry of the Interior; and (vii) the weakening of the Department for the Assessment of Assaults on Human Rights Defenders of the Ministry of the Interior owing to the constant turnover of governmental workers at the head of this department.

The Committee also notes with **deep concern** that the abovementioned trade union organizations specifically report: (i) the murder on 29 April 2018 of Alejandro García Felipe, general secretary of the local branch of the National Trade Union of Health Workers of Guatemala (SNTSG) Santa Rosa department; (ii) the murder, between 15 and 20 June 2018, of Domingo Nach Hernández, general secretary of the workers' union of the Villa Canales municipality; (iii) the murder, on 21 June 2018, of Juan Carlos Chavarría Cruz, general secretary of the Workers' Union of the Melchor de Mencos municipality, Petén; (iv) the murder of David Figueroa García, chairman of the Executive Board of the Workers' Union of San Carlos of Guatemala University, whose headquarters are in Petén, in June 2018; and (v) the murder of Juana Raymundo, a SNTSG member, on 29 July 2018. The trade union organizations add that in the first three cases, there are specific records and evidence indicating the possible anti-union nature of the murders and that, in two cases, the victims had previously requested security measures from the Ministry of the Interior, which were not granted.

While duly noting the continuing efforts of the Government and the difficulty involved in shedding light on the oldest cases of murder being examined, the Committee expresses its **deep concern** about the allegation of five new

murders of members of the trade union movement in recent months and about the high level of impunity that prevails in relation to the allegations of numerous murders and acts of anti-union violence reported in recent years. The Committee also notes the announcement that the mandate of the CICIG will expire in September 2019. In the same way as the Committee on Freedom of Association, the Committee is of the view that, in the light of the scale and magnitude of the aforementioned challenges, together with the willingness expressed by the tripartite constituents through the establishment of the National Tripartite Committee on Labour Relations and Freedom of Association, ambitious measures to strengthen and carry out the national policy for combating anti-union violence and impunity are necessary and timely.

In light of the above, the Committee once again urges the Government, in order to give full effect to the Convention and the decision of the Governing Body of November 2018, without further delay continue taking and intensify as a matter of urgency all necessary measures to: (i) investigate all acts of violence against trade union leaders and members with a view to determining responsibilities and punishing the perpetrators and instigators of such acts, taking the trade union activities of the victims fully into consideration in the investigations; and (ii) provide prompt and effective protection for all trade union leaders and members who are at risk. With regard to the specific action required to achieve those objectives, the Committee refers to the recommendations issued by the Committee on Freedom of Association in the context of Case No. 2609 (see 387th Report of the Committee, October–November 2018, paragraph 410). The Committee requests the Government to provide detailed information in this respect.

Legislative issues

Articles 2 and 3 of the Convention. The Committee recalls that for many years it has been asking the Government to take measures to amend the following legislative provisions:

- section 215(c) of the Labour Code, which requires a membership of “50 per cent plus one” of the workers in the sector to establish a sector trade union (in this respect, the Committee notes with **concern** the trade unions’ indication that the combination of the impossibility of establishing sector trade unions under the requirements of section 215(c) and the impossibility, in small enterprises, which represent almost all Guatemalan companies, to meet the requirement under the Labour Code, of 20 workers for the establishment of a trade union, results in the inability for most of the country’s workers to exercise the right to join a trade union, a situation which is reflected in the overall rate of trade union membership which stands at 1.5 per cent);
- sections 220 and 223 of the Labour Code, which establish the requirement to be of Guatemalan origin and to work in the relevant enterprise or economic activity to be able to be elected as a trade union leader;
- section 241 of the Labour Code, under the terms of which, in order to be lawful, strikes have to be called by a majority of the workers and not by a majority of those casting votes;
- section 4(d), (e) and (g) of Decree No. 71-86, as amended by Legislative Decree No. 35-96 of 27 March 1996, which provides for the possibility of imposing compulsory arbitration in non-essential services and establishes other obstacles to the right to strike; and
- sections 390(2) and 430 of the Penal Code and Decree No. 71-86, which establish labour, civil and criminal penalties in the event of a strike by public officials or workers in certain enterprises.

In addition, the Committee has been asking the Government for many years to take measures to ensure that various categories of public sector workers (engaged under item 029 and other items of the budget) enjoy the guarantees afforded by the Convention.

In its previous comments, the Committee observed with interest that the tripartite agreement signed in November 2017 provided for the presentation to the National Congress by March 2018, using a tripartite approach, of the legislative proposals referred to in point 5 of the roadmap, the objective of which is to bring the national legislation into line with the Convention, and that the agreement referred to various specific matters raised by the Committee. The Committee notes that, according to the information provided by the Government and the social partners, in February 2018, the tripartite constituents, with a view to ensuring full compliance with the Convention of consolidated texts, agreed on: (i) the revision of sections 390(2) and 430 of the Penal Code; (ii) the revision of provisions of Decree No. 71-86 relating to the list of essential services; and (iii) the recognition of the trade union rights of public sector workers under short-term and special regime contracts. The Committee also notes that, under an agreement signed on 28 August 2018, the national tripartite constituents agreed on a series of principles on which future legislation should be based relating to the establishment of sector trade unions and their right to collective bargaining as well as strike votes and their repercussions. While noting that the draft law referred to in the November 2017 agreement has still not been submitted, the Committee notes with **interest** the agreements concluded in February and August 2018. *The Committee trusts that, in conformity with the November 2018 decision of the Governing Body and with the active participation of the social partners, the Government will soon be in a position to report the adoption, requested for many years, of legislation which fully complies with the obligations contained in the Convention. The Committee requests the Government to provide information on the developments in this regard, including a copy of the legislation.*

Application of the Convention in practice

Registration of trade unions. In its previous comments, the Committee requested the Government to pursue more in depth dialogue with the trade unions on the revision and acceleration of the trade union registration process. The Committee expressed in its last comment the hope that the tripartite agreement of November 2017 would give fresh impetus to that dialogue. According to the information provided in the Government's report and in its reports addressed to the September 2018 Tripartite Mission and the Governing Body: (i) 29 trade unions (16 from the public sector and 13 from the private sector) were registered between January and 21 September 2018; (ii) in the past three years, an average of 20 petitions have been filed; (iii) the registration process with the Ministry takes an average of three to five months; and (iv) in 2018, trade unions including workers with fixed-term contracts were registered for the first time in the Ministry register, as well as trade union associations (domestic workers' unions and footballers' unions). The Committee also notes, however, that in its observations within the framework of this Convention and in its report to the Tripartite Mission, the Autonomous Popular Trade Union Movement and the Global Unions of Guatemala state that the trade unions continue to face unjustified obstacles to registration and that under the previous Minister of Labour and Social Security, additional requirements were unilaterally introduced for registration, which should be withdrawn. **While taking due note of the information provided by the Ministry of Labour and, particularly, the registration of trade union associations, the Committee once again requests the Government to pursue in-depth and targeted dialogue with the trade unions to revise and accelerate the trade union registration process. The Committee requests the Government to provide information on all progress made in this respect and reminds it that it may avail itself of the technical assistance of the Office.**

Settlement of disputes relating to freedom of association and collective bargaining. The Committee takes due note that: (i) established under the National Tripartite Committee, is the Subcommittee for Dispute Mediation and Settlement, which has replaced the Committee for the Settlement of Disputes before the ILO, in operation between 2015 and 2017; (ii) the Subcommittee's rules of procedure are to be adopted, while the appointment of its independent mediator is pending. **Noting the high number of disputes brought before the ILO and recalling its comments made in this respect within its 2017 observation on the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Committee encourages the Government and the social partners to devote the necessary efforts to ensure that the new subcommittee can, in the very near future, help to strengthen implementation of the Conventions concerning freedom of association and collective bargaining ratified by Guatemala. The Committee recalls once again that the Government may continue to rely on the Office's technical assistance in this respect.**

Awareness-raising campaign on freedom of association and collective bargaining. In its previous comments, the Committee urged the Government, in collaboration with the social partners, to ensure that the awareness-raising campaign on freedom of association and collective bargaining is given real visibility in the national mass media. The Committee notes the Government's indication that: (i) the signing of the November 2017 tripartite agreement and the start-up of the National Tripartite Committee have resulted in a wider coverage by the mass media; (ii) the awareness-raising campaign is ongoing, particularly through the social networks of the Government, the *Diario de Centroamérica* (the official Guatemalan daily newspaper) and the Guatemalan radio station TWG; (iii) on the occasion of the ILO centenary, four conferences will be held on social dialogue and freedom of association, in cooperation with the country's three main universities; and (iv) the National Tripartite Committee should function as a catalyst by means of which the tripartite constituents will be able to carry out joint initiatives to raise awareness of freedom of association and collective bargaining. The Committee also notes that, within the framework of the Tripartite Mission, the trade unions stated that the actions to launch the awareness-raising campaign had not been satisfactory and that, because of limited budgetary resources of the Ministry of Labour and Social Security, the Government should, under the authority of the President, collect funds to finance the campaign. The Committee notes, lastly, that, within the framework of the above-mentioned Mission, the CACIF: (i) agreed on the need to collect funds but highlighted the challenge that this posed; and (ii) indicated that, through the National Tripartite Committee, the tripartite constituents could publish joint statements on topics of interest, such as collective bargaining in the public sector. **Noting that both the implementation of the decision of the November 2018 Governing Body and the institutionalization of the National Tripartite Committee constitute conducive contexts in this respect, the Committee once again urges the Government, in collaboration with the social partners, to take the necessary steps to ensure that the awareness-raising campaign on freedom of association and collective bargaining is given substantive visibility in the national mass media. The Committee requests the Government to provide information on any progress made in this respect.**

The Committee trusts that, in the context of the implementation of the decision of the November 2018 Governing Body and the institutionalization of the National Tripartite Committee on Labour Relations and Freedom of Association, the Government, with the participation of the social partners and the technical assistance of the Office, will take the necessary measures to remedy, in the near future, the serious violations of the Convention noted for many years by the Committee.

[The Committee requests the Government to reply in full to the present comments in 2019.]

Guinea-Bissau

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1977)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2011.

The Committee notes the comments of 4 August 2011 by the International Trade Union Confederation (ITUC) referring to wage bargaining under the National Tripartite Council for Social Consultation and to the inadequate provisions in the General Labour Act regarding protection against anti-union discrimination. The Committee also notes the comments of 30 August 2011 by the National Workers Union of Guinea (UNTG-CS) referring to the need to strengthen the capacity of the general labour inspectorate and the courts to enforce the labour legislation. **The Committee requests the Government to send its observations thereon.**

Articles 4 and 6 of the Convention. Scope of the Convention. Agricultural workers and dockworkers. The Committee noted previously the Government's intention to pursue revision of the General Labour Act, Title XI of which contains provisions on collective bargaining and the adoption of measures to guarantee agricultural workers and dockworkers the rights laid down in the Convention. The Committee notes that, in its report, the Government states that the revision of the legislation is still in process. The Committee noted previously the Government's statement that the draft Labour Code provided for adaptation of the application of its provisions to the specific characteristics of the work performed by agricultural workers and dockworkers. **The Committee requests the Government to provide information on the status of the draft legislation and trusts that it will guarantee for agricultural workers and dockworkers the rights laid down in the Convention.**

The Committee notes that the Government states that there is no specific legislation on this subject, which is dealt with in bodies created for the purpose such as the Standing Committee on Social Consultation. The Committee reminds the Government that it requested information on measures taken to adopt the special legislation which, under section 2(2) of Act No. 8/41 on freedom of association, was to regulate the right to collective bargaining of public servants who are not engaged in the administration of the State. **The Committee once again requests the Government to send information on this matter.**

The Committee requested the Government to provide information on any developments regarding the promotion of collective bargaining in the public and private sectors (training and information activities, seminars with the social partners, etc.), and to provide statistics on the collective agreements concluded (by sector) and the number of workers they cover. The Committee noted that the ITUC's comments show that the collective bargaining situation is not satisfactory. It again reminds the Government that *Article 4* of the Convention provides that "measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiations between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreement". **The Committee requests the Government to take specific measures to promote greater use in practice of collective bargaining in the private and public sectors, and to report any developments in the situation, indicating the number of new agreements concluded and the number of workers covered. The Committee hopes that the Government's next report will contain full information on the matters raised and on the ITUC's comments.**

The Committee reminds the Government that it may seek technical assistance from the Office should it so wish.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Guyana

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

The Committee notes with **deep concern** that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments initially made in 2009.

In its previous observation, the Committee referred to the recognition of only those unions claiming 40 per cent support of the workers, as set out in the Trade Union Recognition Act. The Committee takes note of the Government's statement that, at the request of the Trades Union Congress, the Trade Union Recognition Act provided for the recognition of unions that were recognized prior to the Act without having to prove that they had majority support (section 32). All unions benefited from this provision which the Government says is no longer applicable as all certificates applicable under this section have been issued. Given that the representativeness of unions might change, the Committee recalls once again that, if no union covers more than 40 per cent of the workers in the bargaining unit, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their members (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 241). **The Committee hopes that significant progress respecting this issue will be made in the near future and requests the Government to provide information on the results of the consultative process.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Collective bargaining in practice. **The Committee requests the Government to provide information on the measures taken, in conformity with Article 4 of the Convention, to promote collective bargaining as well as to provide information on the number of collective agreements concluded and in force in the country, indicating the sectors concerned and the number of workers covered.**

Haiti

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1979)

“The Committee notes the Government’s communication received on 30 October 2018 in which it informs the Committee that, further to the conclusions of the Conference Committee, it has requested ILO technical assistance with a view to helping in the presentation of the reports due, strengthening the inspection services, consolidating social dialogue for the continuation of social reforms, and addressing the other points raised by the Conference Committee. The Government adds that it hopes to receive the requested assistance before the next session of the International Labour Conference. The Committee hopes that this technical assistance will be provided without delay.”

The Committee notes the observations of the Association of Haitian Industries (ADIH) received on 31 August 2018. It also notes the observations of the Confederation of Public and Private Sector Workers (CTSP) and the International Trade Union Confederation (ITUC), received on 1 September 2018, as well as the observations of the Trade Union Federation of Haiti (CSH), received on 29 August 2018 which relate to the application of the principles of freedom of association in practice.

The Committee also notes with *deep concern* that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2012.

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP) and the International Trade Union Confederation (ITUC), received on 30 August and 1 September 2017, respectively, which relate to the application of the principles of freedom of association in practice. *The Committee requests the Government to provide its comments in this respect.*

The Committee recalls that for many years it has been requesting the Government to amend the national legislation, and particularly the Labour Code, to bring it into conformity with the provisions of the Convention. The Committee recalls that its comments principally concerned:

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their choosing:

- the need to amend sections 229 and 233 of the Labour Code in order to ensure that minors who have reached the statutory minimum age for admission to employment are allowed to exercise their trade union rights without parental authorization;
- the need to amend section 239 of the Labour Code so as to allow foreign workers to serve as trade union officials, at least after a reasonable period of residence in the country;
- the need to guarantee for domestic workers the rights laid down in the Convention (section 257 of the Labour Code provides that domestic work is not governed by the Labour Code, and the Act adopted by Parliament in 2009 to amend this provision – the Act has not yet been adopted, but the Government referred to it in its previous reports – also does not recognize the trade union rights of domestic workers).

Article 3. Right of workers’ organizations to organize their activities and formulate their programmes:

- the need to revise the provisions of the Labour Code on compulsory arbitration in order to ensure that recourse to the latter is only possible to bring an end to a collective labour dispute or a strike in certain circumstances, namely: (1) when the two parties to the dispute so agree; or (2) when a strike may be restricted or prohibited, namely: (a) in the context of disputes involving officials who exercise authority in the name of the State; (b) in disputes in essential services in the strict sense of the term; or (c) in situations of acute national or local crisis, although only for a limited period and solely to the extent necessary to meet the requirements of the situation.

The Committee expects that with the technical assistance that it is receiving, particularly in view of the resumption of tripartite dialogue for the reform of the Labour Code, the Government will be in a position in its next report to indicate that progress has been achieved in the revision of the national legislation to bring it into full conformity with the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary measures in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

The Committee notes the Government’s communication received on 30 October 2018 in which it informs the Committee that, further to the conclusions of the Conference Committee, it has requested ILO technical assistance with a view to helping in the presentation of the reports due, strengthening the inspection services, consolidating social dialogue for the continuation of social reforms, and addressing the other points raised by the Conference Committee. The Government adds that it hopes to receive the requested assistance before the next session of the International Labour Conference. The Committee hopes that this technical assistance will be provided without delay.

The Committee notes the observations of: (i) the International Trade Union Confederation (ITUC) received on 1 September 2018 denouncing the absence of collective bargaining in the country as a result of the alleged opposition from employers; (ii) the Confederation of Public and Private Sector Workers (CTSP) received on 29 August 2018 and related to elements examined by the Committee in its previous comment; and (iii) the Trade Union Federation of Haiti (CSH), received on 1 September 2018 alleging acts of anti-union discrimination. *The Committee requests the Government to provide its comments thereon.*

The Committee finally notes the observations from the Association of Haitian Industries (ADIH) received on 31 August 2018.

The Committee recalls the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 30 August 2017, concerning allegations of grave violations of freedom of association in both the public and the private sectors, and particularly in several enterprises in textile export processing zones, where some 200 unionized workers and trade union leaders have been dismissed following a strike called in May 2017 in support of an increase in the minimum wage. The Committee notes in this respect the campaign launched in July 2017 by the International Trade Union Confederation (ITUC) and the Trade Union Confederation of the Americas (TUCA) denouncing violations of freedom of association. The Committee expresses **deep concern** at this information. It notes that these issues are being followed-up by the Better Work programme, a partnership between the ILO and the International Finance Corporation (IFC), a member of the World Bank Group, which has been present in Haiti since 2009. **Recalling that acts of harassment and intimidation carried out against workers or their dismissal by reason of trade union membership or legitimate trade union activities is a serious violation of the principles of freedom of association enshrined in the Convention, the Committee expects that the Government will take the necessary measures to ensure respect for these principles and requests it to provide information on any investigations ordered by the Ministry of Social Affairs and Labour (MAST), and any judicial procedures in this regard.**

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2012.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee recalls that its previous comments concerned the need to adopt a specific provision establishing protection against anti-union discrimination in recruitment practices, and the need to adopt provisions generally affording adequate protection to workers against acts of anti-union discrimination (on the basis of trade union membership or activities) during employment, accompanied by effective and rapid procedures and sufficiently dissuasive sanctions. In this regard, the Committee recalls that, in accordance with section 251 of the Labour Code, "any employer who, in order to prevent an employee from joining a trade union, organizing a trade union or exercising his or her rights as a trade union member, dismisses, suspends or demotes the employee or reduces his or her wages, shall be liable to a fine of 1,000 to 3,000 Haitian gourdes (approximately US\$15–45) to be imposed by the labour tribunal, without prejudice to any compensation to which the employee concerned shall be entitled". **The Committee requests the Government to ensure that, in the context of the renewal of tripartite dialogue for the reform of the Labour Code, the penalties provided for in the event of anti-union discrimination during employment are increased substantially in order to ensure that they are sufficiently dissuasive. It also requests the Government to ensure the adoption of a specific provision establishing protection against anti-union discrimination at the time of recruitment.**

Article 4. Promotion of collective bargaining. The Committee once again recalls the need to amend section 34 of the Decree of 4 November 1983, particularly in relation to its provisions empowering the Labour Organizations Branch of the Labour Directorate of the MAST "to intervene in the drafting of collective agreements and in collective labour disputes with regard to all matters relating to freedom of association". **The Committee expects that the Government will draw on the technical assistance provided by the Office to amend section 34 of the Decree of 4 November 1983 in order to ensure that the Labour Organizations Branch can only intervene in collective bargaining at the request of the parties.**

Right to collective bargaining of public servants not engaged in the administration of the State and public employees. **The Committee requests the Government to provide information on the legislative provisions relating to this subject.**

Right to collective bargaining in practice. In its previous comments, the Committee noted that, following the tripartite training course organized by the Office in 2012 in Port-au-Prince for the interested parties in the textile sector, the participants emphasized the need to establish a permanent forum for bipartite dialogue in order to strengthen dialogue between the actors in the sector. **The Committee requests the Government to provide information on this subject, including in light of the most recent events in the textile sector in May 2017.** The Committee notes with **concern** that, according to the CTSP, there are only four collective agreements in force in the country and some of them are not signed by the lawful representatives of workers. **The Committee requests the Government to provide its comments on this subject and to supply information on the measures adopted or envisaged to promote collective bargaining in the country.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Honduras

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2018, which refer to the issues examined by the Committee in this comment, and the Government's replies.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion held in June 2018 in the Conference Committee on the Application of Standards (hereinafter, the Conference Committee) concerning the application of the Convention by Honduras. The Committee notes that the Conference Committee, deploring the serious allegations of acts of anti-union violence, called upon the Government to: (i) take without delay all the necessary measures to ensure that the investigations into the murders are carried out promptly in order to determine the persons responsible and to punish those guilty of these crimes; (ii) provide rapid and effective protection to all trade union leaders and members who are under threat to ensure that the lives and physical integrity of persons are effectively protected and to implement measures to prevent further cases of trade union

murders and violence; (iii) immediately conduct competent investigations into acts of anti-union violence and prosecute the persons responsible for those crimes; (iv) ensure that the relevant authorities have sufficient resources and personnel to undertake this work effectively; and (v) take all the necessary measures to create an environment in which workers are able to exercise their right of freedom of association without the threat of violence or other violations of their civil liberties. In addition, referring to the legislative provisions of the Labour Code that are incompatible with the Convention, the Conference Committee requested the Government, in consultation with the social partners, to amend the legislation with respect to the following issues: (i) the exclusion of workers' organizations in agricultural and stock-raising enterprises which do not permanently employ more than ten workers (section 2(1)); (ii) the prohibition of more than one trade union in a single enterprise (section 472); (iii) the requirement of more than 30 workers to establish a trade union (section 475); and (iv) the requirement that the officers of a trade union must be of Honduran nationality (sections 510(a) and 541(a)), be engaged in the corresponding activity (sections 510(c) and 541(c)) and be able to read and write (sections 510(d) and 541(d)).

On the occasion referred to above, the Conference Committee urged the Government to accept a direct contacts mission before the next International Labour Conference and to avail itself of ILO technical assistance. In this respect, the Committee duly notes that the Government: (i) extended an official invitation to the Office in relation to the direct contacts mission and requested the Office's technical assistance in relation to the application of the Convention; and (ii) a mission preparing for the direct contacts mission was conducted by the Office between 23 and 26 October 2018. The Committee also notes the setting up on 10 September 2018, within the Economic and Social Council, of the Sectoral Committee for the Handling of Disputes referred to the ILO (MEPCOIT), a tripartite body the mandate of which covers not only the resolution of occasional disputes, but also the revision of the labour legislation and protection from anti-union violence. ***The Committee welcomes the initiatives taken by the Government and trusts that the upcoming direct contacts mission will lead to significant progress with regard to freedom of association in the country.***

Trade union rights and civil liberties

In its previous comments, the Committee expressed deep concern at the large number of anti-union crimes, including many murders and death threats, committed since 2010. The Committee firmly urged the Government to take without delay all the necessary measures: (i) to ensure that the investigations into the murders are carried out promptly in order to determine the persons responsible and to punish those guilty of these crimes; and (ii) to provide prompt and effective protection to all trade union leaders and members who are at risk. Regarding cases of murders of trade union leaders and members, the Committee notes the Government's indications that: (i) the murders of Ms Sonia Landaverde Miranda, Ms Maribel Sánchez García and Ms Juana Suyapa Bustillo, and Mr Alfredo Misael Ávila Castellanos, Mr Fredis Omar Rodríguez, Mr Martín Florencio Rivera Barrientos, Mr Roger Abraham Vallejo and Mr Félix Murillo López are under investigation; (ii) the murder of Mr Evelio Posadas Velázquez is being examined to decide on a request for proceedings or the extension of the investigation; however, to date, there is no information proving that the motive for the murder is related to his union activities; (iii) regarding the murders of Ms Alma Yaneth Díaz Ortega and Ms Uva Erlinda Castellanos Vigil, the arrest warrant to which the Government referred in its previous observations still has not been executed; (iv) regarding the murder of Ms Claudia Larissa Brizuela, two defendants have been convicted and have lodged an appeal, which is still pending; and (v) regarding the murders of trade union leader Mr José Ángel Flores, who was the beneficiary of protection measures, and trade union member Mr Silmer Dionisios George, on 22 November 2016 the Public Prosecutor's Office initiated the prosecutions of two persons and both arrest warrants still have not been executed.

With respect to the kidnapping of Mr Moisés Sánchez and the physical assault of his brother, Mr Hermes Misael Sánchez, who is also a union member, the Committee notes the Government's assertion that both cases were presented to the National Human Rights Committee, but the perpetrators have not been identified and the Government does not know whether the two men are covered by specific protection measures. Regarding the allegations of death threats examined in its previous comments, the Committee notes the Government's indications that: (i) the complaint of Mr Miguel Ángel López Murillo, trade union leader and recipient of protective measures, is under investigation; however, in order for the Public Prosecutor's Office to bring public criminal proceedings, criminal law requires the authorization of the victim, which has not been granted; (ii) regarding trade union leader Mr Nelson Geovanny Núñez Chávez, a protective mechanism was implemented for him as a result of threats but he left the country; and (iii) regarding the situation of trade union leader Ms Patricia Rivera, the Public Prosecutor's Office does not have any record of her complaint and, under current legislation, cannot act on its own initiative.

The Committee also notes the general information provided by the Government with regard to the measures designed to ensure that investigations into crimes against trade unionists are carried out promptly and to provide prompt and effective protection to the trade unionists at risk. The Committee notes that the Government emphasizes first of all that there is no state policy of persecution and violence and that violence and insecurity are deep-seated issues with serious consequences for Honduran society. The Government adds that it devotes a great deal of effort to combating this phenomenon and reducing impunity, actions that have contributed to a marked reduction in the murder rate in recent years. In relation to specific initiatives to ensure prompt investigations, the Government asserts that: (i) it increased the budget of the Public Prosecutor's Office, leading to the establishment of new departments, including the complaints reception unit, the strategic unit for criminal prosecution and a special human rights unit in the city of Tocoa; (ii) under the strategic institutional framework (2015–22) of the Ministry of Security, measures were adopted to support the work of the

Criminal Investigation Police, including the acquisition of new laboratories and the training of police officers; (iii) the budget of the judiciary was increased and the Special Act on Judicial Bodies with National Territorial Jurisdiction was reformed, establishing special courts with national jurisdiction to hear cases of corruption and extortion; (iv) the National Plan for the Eradication of Judicial Delays was approved and sections 127-A and 127-B were added to the Code of Criminal Procedure, thereby facilitating virtual hearings; and (v) in the framework of the Nation Plan of Action for Human Rights (PNADH), in January 2018, the State Secretariat at the Human Rights Office was established.

The Committee also notes the information provided by the Government regarding protection measures for at-risk trade union members, indicating that: (i) between 15 May 2015, the date of entry into force of the Act for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Workers, and 30 April 2018, a total of 293 requests for protection measures were received and 193 were granted, of which seven were for trade unionists; (ii) in 2018, a monitoring system was established with the aim of obtaining up-to-date information and following up on the recommendations made to the Government by the various regional and international organizations; (iii) on 15 March 2017, Decree No. 178-2016 entered into force, section 90(2) of which established a fine of 300,000 lempiras (some US\$12,000) for “any person who, using violence or threats, infringes in any way the right to organize and to freedom of association”; and (iv) the recently established MEPCOIT will enable the establishment of an information exchange channel between the trade union movement, the Public Prosecutor’s Office, the Ministry of Human Rights and the Ministry of Labour and Social Welfare.

The Committee duly notes the detailed information provided by the Government. While welcoming the general initiatives taken to tackle the general situation of violence and impunity in the country and the progress in strengthening institutions with regard to men and women human rights defenders, the Committee notes with **concern** that: (i) of the 14 murders of leading members of the trade union movement reported to the Committee to have taken place between 2010 and 2016, so far only one case has resulted in a conviction, which is currently awaiting an appeal; (ii) no progress has been reported in the investigations into threats against members of the trade union movement; (iii) the information provided on the investigations into the alleged murders does not specify the manner in which possible links between the murders and the victims’ trade union activities are explored; and (iv) with the exception of the establishment of an administrative fine under Decree No. 178-2016, the reported initiatives target violence in general and do not include specific actions focusing on anti-union violence.

In this regard, the Committee emphasizes that trade union activities, which are by their very nature related to the resolution of economic and social disputes, can be disproportionately affected by the existence of a general context of violence and therefore require special attention and protection from the authorities. ***In light of the above, the Committee firmly urges the Government to intensify its efforts to: (i) investigate all acts of violence against trade union leaders and members, with the aim of identifying those responsible and punishing both the perpetrators and the instigators of these crimes; and (ii) provide prompt and effective protection to at-risk trade union leaders and members. The Committee requests the Government to provide detailed information on all complaints brought and administrative fines levied under Decree 178-2016, as well as any prosecutions resulting from or related to proceedings under the Decree. Duly noting the Government’s indication that, through the recently established MEPCOIT, it will establish a channel for information exchange between the authorities and the trade union movement with regard to anti-union violence, the Committee particularly urges the Government to take all the necessary measures to ensure that: (i) all the competent authorities, especially the police force, the Public Prosecutor’s Office and the judiciary, tackle in a coordinated and prompt manner the violence suffered by members of the trade union movement; (ii) when establishing and conducting investigations, account is fully and systematically taken of the possible anti-union nature of murders of members of the trade union movement and the possible links between the murders of members of the same trade union, and that the investigations target both the perpetrators and the instigators of the crimes; (iii) information exchange between the Public Prosecutor’s Office and the trade union movement is improved; and (iv) the budget is increased for both the investigations into acts of anti-union violence and protection schemes for members of the trade union movement. The Committee trusts that the high-level mission due to take place soon in the country will be able to make significant progress in this respect. The Committee requests the Government to provide information on any progress made in this regard and to continue providing up-to-date information on the status of the ongoing investigations.***

The Committee notes the new allegations of the ITUC asserting that: (i) on 9 March 2018, a violent police crackdown ended a strike organized by the workers of a transnational agricultural enterprise, giving rise to the torture of several trade union members and the issuing of 34 arrest warrants; and (ii) in 2017, the president of the Union of Star Workers (SintraStar) was subjected to threats and, in February 2018, Mr Lino Hernández, a leader of the same union, resigned from his position following alleged death threats against him and his family. Regarding the alleged police crackdown, the Committee notes the Government’s assertion that the labour inspectorate closely monitored the strike, which began on 26 September 2017 and is yet to be resolved. ***Noting with concern that the Government has not referred to the alleged police violence or the arrest warrants, the Committee requests the Government to provide information in this respect.*** Regarding the alleged death threats against the SintraStar president, the Committee notes the Government’s indication that it has requested information from the competent authority but has not yet received a response. ***The Committee requests the Government to provide information on the protection granted to Mr Lino Hernández and the investigations in relation to the death threats of which he was allegedly a victim.***

Legislative issues

Articles 2 et seq. of the Convention relating to the establishment, autonomy and activities of trade unions. The Committee recalls that it has been requesting the Government for many years to amend the legislation with respect to the following issues:

- (a) the exclusion from the rights and guarantees of the Convention of workers in agricultural and stock-raising enterprises which do not permanently employ more than ten workers (section 2(1));
- (b) the prohibition of more than one trade union in a single enterprise (section 472);
- (c) the requirement of more than 30 workers to establish a trade union (section 475);
- (d) the requirement that the officers of a trade union must be of Honduran nationality (sections 510(a) and 541(a)), be engaged in the corresponding activity (sections 510(c) and 541(c)) and be able to read and write (sections 510(d) and 541(d));
- (e) the prohibition on strikes called by federations and confederations (section 537);
- (f) the requirement of a two-thirds majority of the votes of the total membership of the trade union organization in order to call a strike (sections 495 and 563);
- (g) the authority of the competent ministry to end disputes in oil industry services (section 555(2));
- (h) government authorization or a six-month period of notice for any suspension of work in public services that do not depend directly or indirectly on the State (section 558); and
- (i) the referral to compulsory arbitration, without the possibility of calling a strike for as long as the arbitration award is in force (two years), of collective disputes in public services that are not essential in the strict sense of the term (sections 554(2) and (7), 820 and 826).

The Committee recalls that, in its previous comments, it noted with regret that the progress made in 2014 has not been given effect in practice in relation to the discussion and adoption of a draft reform to bring the Labour Code into conformity with the Convention. In this regard, the Committee notes the Government's indication that, with a view to bringing the Labour Code into conformity with Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98): (i) the Ministry of Labour and Social Security is formulating a new reform bill that will serve as a basis for tripartite discussion within the CES; (ii) the CES has tasked the recently established MEPCOIT with reviewing and issuing a technical option in relation to the draft reform to the Labour Code and the MEPCOIT will present its initial progress report at the next meeting of the CES; and (iii) the Government has requested the technical assistance of the Office to support this process. The Committee welcomes the resumption of tripartite consultations to bring the legislation into conformity with the Convention. ***The Committee trusts that the high-level mission due to take place soon in the country will be able to make significant progress in this process and that the Government will soon be able to report the adoption of a bill addressing the various comments made by the Committee for many years.***

2017 amendment to section 335 of the Penal Code. The Committee notes the ITUC's indication that, in 2017, an amendment to the Penal Code was adopted that criminalized a wide range of activities as acts of terrorism, so that a trade union leader may be accused of terrorism if his or her trade union participates in a social protest that is later declared by a public prosecutor to be a subversion of constitutional order. The Committee notes the Government's indication that: (i) section 335 of the Penal Code establishes that a person commits a terrorist offence if he or she performs any act intended to cause death or serious bodily injury, fire or other damage against a civilian or his or her property ... when the purpose of such an act or event by its nature or context is to intimidate or cause a state of terror in the population or to compel a government or an international organization to perform or refrain from performing any act; and (ii) the above amendment to the Penal Code has the sole purpose of ensuring the safety of the population and guaranteeing the rights enshrined in the Constitution and international Conventions. ***Noting that some of the acts specified in section 335 of the Penal Code are broadly defined, the Committee requests the Government to take the necessary measures to ensure that the application of this section by the competent authorities does not restrict the right of trade unions to protest and strike in a peaceful manner. The Committee requests the Government to provide any information on the possible impact of section 335 of the Penal Code on trade union activities.***

Application of the Convention in practice. The Committee notes the Government's indication that legal personality was granted to 23 trade unions (13 of which were in the export processing (*maquila*) sector) between January 2014 and May 2017, and to two trade unions between May 2017 and March 2018. The Committee also notes the Government's indication that, since the entry into force of the Inspection Act, undeniable improvements have been made in relation to the number of inspections conducted, and compliance with the penalties imposed has improved by 81 per cent. ***The Committee duly notes this information and requests the Government to continue providing detailed information on new registrations of trade unions, as well as on inspections conducted and penalties complied with.***

Taking due note of the initiatives taken by the Government as a result of the discussion in the Committee on the Application of Standards, the Committee hopes that the high-level mission due to take place soon in the country will be able to make significant progress in the resolution of the serious violations of the Convention that have been observed for several years.

[The Committee requests the Government to reply in full to the present comments in 2019.]

Jamaica

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

Article 2 of the Convention. Right of workers to establish and join organizations. The Committee had previously requested the Government to take the necessary measures to amend section 6(4) of the Trade Union Act (TUA) in order to ensure that penalties were not imposed on workers for their membership and participation in activities of an unregistered trade union. The Committee notes the Government's indication in its report that this issue is being examined and will be discussed with the social partners at the Labour Advisory Council. ***The Committee expresses the firm hope that the law will be amended in the near future and requests the Government to inform of the developments in this regard.***

Article 3. Interference in the financial administration of a trade union. The Committee had previously requested the Government to take the necessary measures to restrict the Registrar's discretionary rights to carry out inspections and request information with regard to trade union finances at any time as provided in section 16(2) of the TUA. ***Noting with regret that the Government has not provided any information in this regard, the Committee reiterates its previous request. It expects that the Government's next report will contain information on the measures taken to amend section 16(2) of the TUA so as to ensure that the control exercised by the public authorities over trade union finances does not exceed the obligation to submit periodic reports.***

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1962)

In its previous comment, the Committee had noted the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015, which denounced fixed and unreasonable procedural requirements for, and limitations on, collective bargaining. ***The Committee once again requests the Government to provide its comments in this respect.***

Article 4 of the Convention. Promotion of collective bargaining. Recognition of organizations for the purposes of collective bargaining. For many years, the Committee has requested the Government to amend section 5(5) of the Labour Relations and Industrial Disputes Act (LRIDA) of 1975 and section 3(1)(d) of its regulation with a view to bringing them in line with its commitment, pursuant to *Article 4* of the Convention, to promote collective bargaining. The Committee recalls that the legislation allows for the recognition of a trade union as having bargaining rights only when a 50 per cent majority of the workers or a particular category of workers agree for it to have bargaining rights in relation to them. In the event of any doubt or dispute with regard to the representativeness of a union, the regulations allow the Minister to cause a ballot to be taken only if he is satisfied that the applicant union has a membership of not less than 40 per cent of the workers in relation to whom the request has been made. Once this requirement is fulfilled and the ballot taken, the result must show that 50 per cent of the workers eligible to vote have indicated that they wish a particular trade union to have bargaining rights in relation to them. The Committee further notes the ITUC's observation that pursuant to section 5(6) of LRIDA, trade unions may only claim joint bargaining rights if each trade union receives at least 30 per cent of the votes. As noted in its previous comments, the Committee observes that: (i) the legislation fails to provide for the recognition of collective bargaining rights when no union reaches the required thresholds; and (ii) the requirement of 40 per cent membership for the union applying for a ballot restricts considerably the possibility to challenge the continued representativeness of a previously recognized bargaining agent. While noting the Government's indication in its report that these issues are being examined and will be discussed with the Social Partners at the Labour Advisory Council, the Committee recalls that the determination of the threshold of representativeness to designate an exclusive agent for the purpose of negotiating collective agreements which are destined to be applied to all workers in a sector or establishment is compatible with the Convention in so far as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice. In this regard, the Committee considers that if no union in a specific negotiating unit meets the required threshold of representativeness to be able to negotiate on behalf of all workers, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members. Furthermore, as the levels of representativeness change with time, any organization which in a previous ballot failed to secure a sufficiently large number of votes should have the right to request a new election after a stipulated period. In the same vein, any new organization other than the one previously certified should have the right to demand a new ballot after a reasonable period has elapsed. ***Regretting the lack of progress, the Committee urges the Government to take the necessary measures in the very near future to amend its legislation in order to: (i) ensure that if no union reaches the required threshold to be recognized as a bargaining agent, unions are given the possibility to negotiate, jointly or separately, at least on behalf of their own members; (ii) recognize the right of any organization which in a previous ballot failed to secure a sufficiently large number of votes to request a new election after a stipulated period; and (iii) recognize the right of any new organization other than the previously certified organization to demand a new ballot after a reasonable period has elapsed. The Committee requests the Government to keep it informed of the developments in this regard and invites it, if it so wishes, to avail itself of the technical assistance of the Office.***

Promotion of collective bargaining in practice. The Committee requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements.

Japan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1965)

The Committee notes the observations made by the Japanese Trade Union Confederation (JTUC–RENGO) transmitted with the Government's report and the Government's reply thereto. *The Committee also notes the observations of the National Confederation of Trade Unions (ZENROREN) received on 28 September 2018 and requests the Government to provide information in response to these observations.*

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2018 concerning the application of the Convention. The Committee observes that the Conference Committee noted the Government's submissions that a special survey was conducted in January 2018 to identify problems concerning the functioning of the Fire Defence Personnel Committee (FDPC) system, that it consulted workers and employers several times on this issue since March 2018 and the Government's stated commitment to produce a plan to improve the functioning of the FDPC in continued consultation with employers and workers. The Conference Committee observed with concern that comments by this Committee on the application of this Convention had been referring for decades to discrepancies between the legislation and practice concerning the rights of firefighters and prison officers to establish and join organizations of their own choosing. The Committee noted the lack of meaningful progress in taking necessary measures regarding the autonomous labour-employer relations system. The Conference Committee called upon the Government to: examine carefully the autonomous labour-employer relations system, in consultation with the social partners, taking into account the Government's statement that there are various issues with regard to this system; provide information on the initiative discussed above to identify problems concerning the functioning of the FDPC system and measures taken as a result; hold consultations with the social partners at the national level on the view of the Government that firefighters are considered police and how this view corresponds to the application of the Convention and provide information on the outcome of this consultation; consider, in consultation with the social partners, what categories of prison officers are considered part of the police, thus exempted from the right to organize, and those categories that are not considered part of the police, and having the right to organize; and consider, in consultation with the social partners, if the procedures of the National Personnel Authority ensure impartial and speedy conciliation and arbitration. The Conference Committee called upon the Government to develop a time-bound action plan together with the social partners in order to implement these recommendations and report to the Committee of Experts before its next meeting in November 2018.

Article 2 of the Convention. Right to organize of firefighting personnel and prison officers. The Committee recalls its previous comments concerning the need to recognize the right to organize for firefighting personnel and prison officers. The Committee notes the Government's indication that the recommendations of the Conference Committee were discussed with JTUC–RENGO on 20 August 2018. As regards the FDPC system, the Government indicates that it revised the implementation policy in September 2018, obtaining agreement from both employees and employers' side and that the new policy will be in force in April 2019. Recalling its consideration that fire defence personnel should be considered as police stemming from its understanding at the time of its ratification of the Convention, the Government describes the main revisions as follows: in order to further utilize the FDPC system, a fire chief and a FDPC chairperson shall endeavour to create an environment for fire defence personnel to easily provide opinions and ensure fairness and transparency in the management of the FDPC; if the FDPC decides not to deliberate on the opinions, it shall inform the personnel who had offered the opinion about the reason why it is not to be deliberated by the day of the FDPC meeting; to facilitate the provision of opinions, fire defence personnel may do so anonymously through the opinion coordinator who will submit to the FDPC secretariat. Information sessions will be held nationwide and pamphlets distributed in order to thoroughly implement the new policy. A list of good practices of FDPC management in consultation with the employees' side will be compiled and shared with the fire departments. Finally, regular social dialogue will further be introduced regarding the FDPC system.

The Committee however notes the concerns raised by JTUC–RENGO that the Government has not responded directly to the Conference Committee's conclusions and that no time-bound action plan was developed with social partners as had been requested. The only development that could be noted is the intention to proceed in consultations between the Ministry of Internal Affairs and Communications and the Fire Defence Agency with the All-Japan Prefectural and Municipal Workers' Union (JICHIRO) which have been conducted since July 2018. JTUC–RENGO regrets that the Government continues to allude to old reports of the Committee on Freedom of Association (CFA) which pre-dated the Government's ratification as justification for the status quo and recalls that the CFA's June 2018 examination of these issues called on the Government to fully grant the right to organize and to collective bargaining to these categories of workers.

The Committee recalls that in its previous comments it had noted that the Government was considering a new initiative comprising fact-finding surveys on how the FDPC system is being administered which would allow both the management and the staff nationwide to express their opinions through a questionnaire. ***The Committee once again requests the Government to provide information on the conduct of the surveys, their outcome and the measures taken or contemplated as a result. Noting the additional initiative indicated by the Government in its report concerning the FDPC system, while also noting that the revised implementation policy for the FDPC is distinct from the recognition of the right to organize under the Convention, the Committee once again expresses its firm expectation that continuing consultations will contribute to further progress towards ensuring the right of firefighting personnel to form and join an organization of their own choosing to defend their occupational interests. The Committee requests the Government to provide detailed information on all further steps taken in this regard, as well as detailed information on the steps contemplated in the future.***

Regarding penal institution staff's right to organize, the Committee recalls the information provided by the Government in its previous report on the distinction among staff in penal institutions: (i) prison officers with a duty of total operation in penal institutions, including conducting security services with the use of physical force, who are allowed to use small arms and light weapons; (ii) penal institution staff other than prison officers, who are engaged directly in the management of penal institutions or the treatment of inmates; and (iii) penal institution staff designated, by virtue of the Code of Criminal Procedure, to carry out duties of the judicial police officials with regard to crimes which occur in penal institutions and who have the authority to arrest, search and seize. The Committee notes the Government's brief explanation in its present report that it went through the review by the Committee of the Administrative Reform Promotion Headquarters and considers that the prison officer is included in the police. The Government also considers that this view was shared by the CFA in its 12th and 54th reports. The Committee further notes however, as regards the report referred to by the Government concerning prison staff, the indication by JTUC-RENGO that the 2007 report issued by the Expert Examination Committee for the Headquarters for Promoting Administrative Reform had indicated that opinions were divided on whether or not to give prison staff the right to organize.

The Committee notes with ***regret*** that, despite the Conference Committee conclusions calling upon the Government to consider, in consultation with the social partners, the categories of prison officers considered part of the police and those categories that are not, the Government has simply stated that it considers prison officers to be police without any indication as to the review carried out with the social partners to differentiate between the different categories of workers. ***The Committee therefore once again requests the Government, in consultation with the national social partners and other concerned stakeholders, to take the necessary measures to ensure that prison officers other than those with the specific duties of the judicial police may form and join the organization of their own choosing to defend their occupational interests, and to provide detailed information on the steps taken in this regard.***

Article 3. Right of public sector employees to organize their activities and formulate their programmes. The Committee recalls its long-standing comments on the need to ensure basic labour rights for public service employees, with the possible exception of public servants exercising authority in the name of the State and workers employed in essential services in the strict sense of the term. The Committee notes the general information provided by the Government on the steps taken to continuously hear opinions from employee organizations and its intention to carefully examine the autonomous labour-employer relations system. The National Personnel Authority, as a neutral third-party organization, provides recommendations of working conditions while hearing thoroughly the opinions and requests from employees and employers; it held 216 official meetings in 2017. The Government will then draft bills, taking a basic position of respecting the NPA recommendation system, which are deliberated in the Diet. The Government concludes that the working conditions of public service employees are appropriately maintained through these compensatory measures. The Committee further notes that the JTUC-RENGO regrets that the Government position on the autonomous labour-employer relations system has not evolved. JTUC-RENGO expresses its deep concern at the apparent lack of intention on the part of the Government to reconsider the legal system with regard to the basic labour rights of public service employees and requests that in light of the Government's neglect of the issues under the Convention discussed by the Conference Committee, consideration be given to investigating these matters through a mission to the country.

Recalling the Conference Committee conclusions, the Committee requests the Government to elaborate, in full consultation with the social partners concerned, a time-bound plan of action for the review of the current system with a view to ensuring effective impartial and speedy conciliation and arbitration procedures, in which the parties have confidence and can participate at all stages, and in which the awards, once made, will be fully and promptly implemented. The Committee requests the Government to indicate the steps taken in this regard and, in the meantime, to continue to provide detailed information on the functioning of the NPA recommendation system. The Committee further requests the Government to indicate any measure taken or envisaged to ensure full exercise of the rights under Article 3 of the Convention for public service employees who are not exercising authority in the name of the State.

[The Government is asked to reply in full to the present comments in 2019.]

Kazakhstan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September, 12 October and 15 November 2018, referring to the issues raised by the Committee below, as well as allegations of violations of fundamental human rights, including the physical assault on the chairperson of a trade union of workers of the fuel and energy complex in the Karaganda region. ***The Committee notes with deep concern the alleged beating and injuries suffered by the trade union leader and urges the Government to investigate the matter without delay and to bring the perpetrators to justice. It requests the Government to inform of any developments in this regard.***

The Committee notes the observations of the Confederation of Employers of Republic of Kazakhstan (KRRK) to which it refers below. The Committee recalls that in June 2017, the Conference Committee on the Application of Standards considered that the Government should accept a high-level tripartite mission (HLTM) before the 2018 International Labour Conference in order to assess progress towards compliance with its conclusions. The Committee notes the mission report of the HLTM, which took place in May 2018. The Committee notes, in particular, the road map to implement the recommendations of the Committee of Experts in relation to the application of the Convention, prepared by the Government and presented at the tripartite meeting with the HLTM.

The Committee had previously noted cases of Ms Larisa Kharkova, the Chairperson of the now liquidated Confederation of Independent Trade Unions of Kazakhstan (KNPRK), who was sentenced to four years of restriction on her freedom of movement, 100 days of compulsory labour and a five-year ban on holding any position in a public or non-governmental organization and of Mr Amin Eleusinov, the Chairperson of a union affiliated to the KNPRK, and Mr Nurbek Kushakbaev, the Vice-President of the KNPRK, who were sentenced to two and two-and-a-half years in prison, respectively and prohibited from engaging in trade union activities after their release. The Committee notes that the three cases have been examined in detail by the Committee on Freedom of Association (CFA) in the framework of Case No. 3283 (see Report No. 386, June 2018, paragraphs 424–474). It further notes from the HLTM report and the Government's indication that Mr Eleusinov and Mr Kushakbaev have been released.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations. Prison staff and firefighters. The Committee notes the information provided by the Government regarding the right to unionize of firefighters and prison staff as well as the information thereon contained in the HLTM report. It notes, in particular, that prison staff, as part of the law enforcement bodies, are placed under the responsibility of the Ministry of Interior and as such are prohibited from establishing and joining trade unions. However, among the employees of the law enforcement bodies (which include prison staff and firefighters), only employees who have a military or police rank are prohibited from establishing and joining trade unions; all civilian staff engaged in the law enforcement bodies can establish and join trade unions. The Committee notes that the HLTM met with the leadership of the Trade Union of Workers of Defence Forces as well as with the chairpersons of the primary trade union organizations of penitentiary systems for two regions. It further notes from the report that similarly, all civilians working in firefighting services enjoyed the right to establish and join trade unions.

Right to establish organizations without previous authorization. The Committee recalls that following the entry into force of the Law on Trade Unions, all existent unions had to be re-registered. It further recalls that it had previously noted with concern that the KNPRK affiliates were denied registration/re-registration, which ultimately led to its liquidation. The Committee recalls that this was despite the assurances given in 2016 to the ILO direct contacts mission by the Ministry of Justice and the Ministry of Labour and Social Development (MLSD) that they would look into this matter and assist the unions, as relevant. The Committee notes the Government's indication that a helpline regarding the issues of trade union registration and activities had been established at the level of the MLSD on 29 June 2018 as per the road map. The Committee notes however the ITUC allegation that the helpline lacks the capacity and mandate to fulfil its role. The ITUC refers in this respect to the recent denials to register organizations on the basis of the previous KNPRK. ***The Committee requests the Government to provide its comments thereon.*** The Committee further notes the conclusions of the CFA, which drew the legislative aspects of Case No. 3283 to the attention of the Committee. It notes, in particular, that several pieces of legislation regulate registration and that some trade unions were denied re-registration because their by-laws were found not to be in conformity with either one or all of the applicable laws. ***The Committee therefore requests the Government to engage with the social partners to review the difficulties identified by trade unions seeking registration with a view to finding appropriate measures, including legislative, to fully give effect to the Article 2 of the Convention and to ensure the right of workers to establish organizations without previous authorization. It requests the Government to provide information on all developments in this regard.***

Right to establish and join organizations of their own choosing. The Committee had previously requested the Government to amend the following sections of the Law on Trade Unions so as to ensure the right of workers to freely decide whether they wish to associate or become members of a higher-level trade union structure and to lower thresholds requirements to establish higher-level organizations:

- sections 11(3), 12(3), 13(3) and 14(4), which require, under the threat of deregistration pursuant to section 10(3), the mandatory affiliation of sector-based, territorial and local trade unions to a national trade union association within six months following their registration, so as to ensure the right of workers to freely decide whether they wish to associate or become members of a higher level trade union structure; and
- section 13(2), which requires a sector-based trade union to represent no less than half of the total workforce of the sector or related sectors, or organizations of the sector or related sectors, or to have structural subdivisions and member organizations on the territory of more than half of all regions, cities of national significance and the capital, with a view to lowering this threshold requirement.

The Committee notes that the road map provides for a number of steps to be taken in consultation with the interested trade unions to address this issue and ultimately to achieve a common proposal for the amendment of the Law for its submission to Parliament in November 2018. The Committee notes the Government's indication that the MLSD was in the process of collecting proposals from the relevant state bodies and the social partners. While noting that two activities aimed at discussing possible amendments to the Law on Trade Unions with the trade unions were conducted with the support of the Office, the Committee notes with *regret* the lack of progress in discussing the unions' proposals and coming to a common position. ***The Committee urges the Government to take the necessary measures in order to amend sections 11(3), 12(3), 13(2) and (3), and 14(4) of the Law on Trade Unions without further delay in consultations with the social partners so as to ensure the right of workers to freely decide whether they wish to associate with or become members of a higher-level trade union structure and to lower thresholds requirements to establish higher-level organizations. It requests the Government to provide information on all progress made in this respect.***

Law on the National Chamber of Entrepreneurs (NCE). The Committee had previously urged the Government to amend the Law on the NCE, so as to eliminate all possible interference by the Government in the functioning of the Chamber and so as to ensure the full autonomy and independence of the free and independent employers' organizations in Kazakhstan. The Committee recalls that the Law calls for the mandatory affiliation to the NCE (section 4(2)), and, during the transitional period to last until July 2018, for the Government's participation therein and its right to veto the NCE's decisions (sections 19(2) and 21(1)). The Committee had noted the difficulties encountered by the KRRK in practice, which stem from the mandatory membership and the NCE monopoly, and in particular, that the accreditation of employers' organizations by the NCE and the obligation imposed in practice on employers' organizations to conclude an annual agreement (a model contract) with the NCE, meant, for all intents and purposes, that the latter approved and formulated the programmes of employers' organizations and thus intervened in their internal affairs. The Committee notes from the HLTM report and the Government's information in its report that there is an agreement to amend section 148(5) of the Labour Code so as to delete reference to the NCE's authority to represent employers at the national, sectoral and regional levels. The Committee further notes that the road map provides for the measures to be taken to address the above concerns culminating with the submission of the draft law to amend various pieces of legislation, including the Law on the NCE to Parliament in November 2018. The Committee notes with *regret* the lack of information on progress in amending the legislation. ***The Committee urges the Government to take the necessary measures without further delay to amend the Law on the National Chamber of Entrepreneurs and any other relevant legislation so as to ensure the full autonomy and independence of the free and independent employers' organizations. It requests the Government to provide information on all developments in this regard.***

The Committee further notes the observations of the KRRK received on 17 November 2018 regarding the road map. ***The Committee requests the Government to provide its comments thereon.***

Article 3. Right of organizations to organize their activities and to formulate their programmes. The Committee had previously welcomed the Government's intention to amend the Labour Code regarding the right to strike by making section 176(1)(1), pursuant to which strikes shall be deemed illegal when they take place at entities operating hazardous production facilities, more explicit as to which facilities were considered to be hazardous. Currently, "hazardous production facilities" are listed in sections 70 and 71 of the Law on Civil Protection, and can be further determined, pursuant to Order No. 353 of the Minister of Investment and Development (2014), by the enterprise in question. ***While noting the information provided by the Government regarding the procedure to follow to declare a strike, the Committee requests the Government to provide information on the status of the previously proposed Labour Code amendment.***

The Committee had previously noted with concern that trade union leaders have been convicted and sentenced in application of section 402 of the Criminal Code (2016), according to which an incitement to continue a strike declared illegal by the court was punishable by up to one year of imprisonment and in certain cases (substantial damage to rights and interest of citizens, etc.), up to three years of imprisonment. It recalled that no penal sanctions should be imposed against a worker for having carried out a peaceful strike and thus for merely exercising an essential right, and therefore that measures of imprisonment or fines should not be imposed on any account. Such sanctions could be envisaged only where, during a strike, violence against persons or property, or other serious infringements of penal law have been committed, and can be imposed exclusively pursuant to legislation punishing such acts (see the 2012 General Survey on the fundamental Conventions, paragraph 158). The Committee requested the Government to take the necessary measures to amend section 402 of the Criminal Code so as to bring it into line with this principle. The Committee notes the Government's indication that on 17 August 2018 it had conducted a meeting on the application of this provision with all

relevant state bodies. It was decided that this issue should be examined by the inter-agency working group of the Prosecutor's Office which is considering amending various pieces of legislation with a view to reforming criminal law and procedure. ***The Committee requests the Government to provide information on all developments in this regard.***

Article 5. Right of organizations to receive financial assistance from international organizations of workers and employers. The Committee had previously requested the Government to adopt, in consultation with the social partners, specific legislative provisions which clearly authorize workers' and employers' organizations to benefit, for normal and lawful purposes, from the financial or other assistance of international workers' and employers' organizations. The Committee notes that the road map provides for the drafting of an explanatory note on this issue and on the procedure to follow for public distribution. The Committee notes the Government's indication that a Recommendation on receiving financial assistance from international organizations has been drafted. ***The Committee requests the Government to provide a copy thereof, and to provide information on steps taken to adopt this Recommendation as a matter of law.***

[The Government is asked to reply in full to the present comments in 2019.]

Kiribati

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)

Articles 1 and 2. Adequate protection against acts of anti-union discrimination. In order to enable it to assess whether adequate protection against acts of anti-union discrimination and interference is provided in practice, the Committee had previously requested the Government to provide information on the number of complaints of anti-union discrimination and employer interference brought to the various competent authorities, the average duration of the relevant proceedings and their outcome, as well as the type of remedies and sanctions imposed in such cases. The Committee notes the Government's indication that only one case of anti-union discrimination was recorded and that the ten union members concerned were reinstated by the arbitration tribunal. ***The Committee requests the Government to continue providing information on the number of complaints of anti-union discrimination and employer interference brought to the various competent authorities, including judicial proceedings, the average duration of the relevant proceedings and their outcome, as well as the types of remedies and sanctions imposed in those cases.***

Article 4. Promotion of collective bargaining. In its previous comments, while noting that sections 4 (definition of collective agreement) and 60 (parties with power to initiate collective bargaining) of the Employment and Industrial Relations Code (2015) do not explicitly refer to federations and confederations, the Committee had requested the Government to: (i) clarify whether federations and confederations have the possibility of engaging in collective bargaining at levels higher than enterprise level; and (ii) provide information on the number of collective agreements concluded during the reporting period and the sectors and the number of workers covered. ***Noting with regret that the Government does not provide any information in this respect, and noting that the Employment and Industrial Relations Code (Amendment) Act (2017) does not contain any amendment in this regard, the Committee reiterates its previous request.***

Lebanon

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1977)

The Committee notes the observations of the General Confederation of Lebanese Workers (CGTL), communicated with the Government's report. The Committee observes that the Government has not replied to the observations made by the International Trade Union Confederation (ITUC) in 2010, alleging that the law imposes a high threshold on representative organizations for engaging in collective bargaining, as well as imposing the requirement of obtaining the agreement of two-thirds of the union membership at a general meeting to validate a collective agreement. ***The Committee once again requests the Government to send its comments concerning the observations made in 2010 by the ITUC.***

With regard to the observations submitted by Education International (EI) in 2015 and 2016 concerning the situation of public and private educational staff and the wage freeze since 1996, the Committee notes that: (i) through the adoption of Decree No. 63 in 2008, teachers in the public and private sectors have had a wage increase; (ii) in 2013, following a wage increase in the private sector, public sector employees, including teachers, were granted an advance on their salary; and (iii) Act No. 26, published in the *Official Gazette* of 21 August 2017, also provides for a wage increase for teachers in the public and private sectors. ***The Committee requests the Government to indicate whether these wage increases are the result of collective bargaining.***

Scope of application of the Convention. Domestic workers. In its previous comments, the Committee observed that the Government had not replied to the observations made by the ITUC concerning the exclusion of domestic workers from the Labour Code. The Committee observes that "domestic workers who work for private households" are excluded from the scope of application of the Labour Code of 1946 (section 7(1)), and that the contractual relationships between domestic workers and the individuals who employ them to perform domestic work in their households are governed by the Act on obligations and contracts. Moreover, the Committee notes that, in its concluding observations of 2018, the United

Nations Human Rights Committee expressed concern that migrant domestic workers are excluded from protection under domestic labour law and are subjected to abuse and exploitation under the sponsorship (*kafala*) system. It also expressed concern about the lack of effective remedies against such abuses and the existence of anti-union reprisals (CCPR/C/LBN/CO/3). *The Committee requests the Government to provide clarification in this respect, by indicating the manner in which domestic workers and migrant domestic workers can enjoy the protection of the Convention, including the right to engage in collective bargaining through the organization of their own choosing, and to indicate whether consideration is being given to amending the above-mentioned provision of the Labour Code. The Committee also requests the Government to indicate how these rights are exercised in practice, by indicating the names of any organizations that represent domestic workers and migrant domestic workers and the number of collective agreements covering them.*

Legislative amendments

Articles 4 and 6 of the Convention. Promotion of collective bargaining. The Committee recalls that, in the comments that it has been repeating for many years, it has been emphasizing the need to revise a number of provisions of the Labour Code in force and to reword certain provisions on collective bargaining in the draft Labour Code communicated by the Government in 2004.

Excessive restrictions on the right to collective bargaining. In its previous comments, the Committee noted that section 3 of Decree No. 17386/64 required trade unions to obtain the support of at least 60 per cent of the Lebanese employees concerned in order for a collective agreement negotiation to be considered valid, and considered this threshold to be excessive. The Committee also noted that section 180 of the draft Labour Code provided for the reduction of the threshold to 50 per cent and reminded the Government that such a solution could nevertheless pose problems of compatibility with the Convention, as it would prevent a representative union without an absolute majority from being able to engage in bargaining. It therefore asked the Government to ensure that if no union represents the required percentage of workers to be declared the exclusive bargaining agent, collective bargaining rights are granted to all the unions in the unit, at least on behalf of their own members.

Right to collective bargaining in the public sector and the public service. In its previous comments, the Committee asked the Government to amend its legislation so that public sector workers not engaged in the administration of the State, governed by Decree No. 5883 of 1994, are able to enjoy the right to collective bargaining. In this regard, the Committee noted that section 131 of the draft Labour Code established that workers in the public administration, municipalities and public enterprises responsible for administering public services on behalf of the State or on their own account would have to right to engage in collective bargaining.

Compulsory arbitration. For many years, the Committee has been asking the Government to take measures so that recourse to arbitration in the three public sector enterprises governed by Decree No. 2952 of 20 October 1965 is only at the request of both parties. The Committee also requested the amendment of section 224 of the draft Labour Code, which provides that, should mediation fail, any dispute in the case of the three public sector enterprises governed by Decree No. 2952 will be settled by an arbitration board. The Committee notes with **regret** the Government's indication that Decree No. 2952 has been replaced by Decree No. 13896 of 3 January 2005, and that now all investment enterprises in the private and public sectors which are responsible for managing public services on behalf of the State or on their own account must resort to compulsory arbitration should negotiations fail. The Committee recalls that compulsory arbitration is generally not compatible with the promotion of free and voluntary collective bargaining required by *Article 4* of the Convention and therefore that compulsory arbitration in the context of collective bargaining is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term (services the interruption of which would endanger the life, personal safety or health of the whole or part of the population) and in the event of an acute national crisis. **Noting with regret that the Government has been merely indicating, for over a decade, that the draft Labour Code is under examination and that due account will be taken of the Committee's comments, and that the Labour Code in force continues to contain provisions that are not compatible with the Convention, the Committee urges the Government to take the necessary legislative measures to amend the Labour Code in force so as to guarantee the collective bargaining rights of workers, including domestic workers. The Committee reminds the Government that it may avail itself of technical assistance from the Office in this regard.**

Collective bargaining in practice. **The Committee requests the Government to provide statistics on the number of collective agreements concluded and in force and to indicate the sectors and number of workers covered.**

Liberia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2017 concerning issues that have been raised since 2012 and which are examined in the present observation, as well as matters that are being dealt with by the Committee on Freedom of Association in the framework of Cases Nos 3081 and 3202.

Legislative developments. The Committee recalls that for many years it has been commenting on the need to amend or repeal the following provisions of Title 18 of the Labour Act, which are not in conformity with the Convention: (i) section 4506, prohibiting workers in state enterprises and the public administration from establishing trade unions; (ii) section 4601-A, prohibiting agricultural workers from joining industrial workers' organizations; and (iii) section 4102(10) and (11), providing for the supervision of trade union elections by the Labour Practices Review Board. The Committee notes with *satisfaction* that, as indicated by the Government in its report, Title 18 of the Labour Practices Law has been repealed by the Decent Work Act 2015 (the Act) which came into force on 1 March 2016. The Committee wishes to raise the following points with respect to the Act.

Scope of application. The Committee notes that section 1.5(c)(i) and (ii) of the Act excludes from its scope of application work falling within the scope of the Civil Service Agency Act. The Committee recalls, in this respect, that in its previous comment, it had noted the Government's indication that the legislation guaranteeing the right of public employees to establish trade unions (the Public Service Ordinance) was being revised with the technical assistance of the Office. The Committee notes that no new information has been provided by the Government in that respect. ***The Committee expects that the revision of the Ordinance will make it possible to give full effect to the Convention in relation to public employees and requests the Government to report any developments in this regard.***

The Committee notes that section 1.5(c)(i) and (ii) of the Act also excludes from its scope of application, officers, members of the crew and any other persons employed or in training on vessels. ***Noting that no information has been provided by the Government on the legislation guaranteeing the right to establish and join organizations to those working on vessels, the Committee requests the Government to indicate how maritime workers, including trainees, are ensured the rights enshrined in the Convention, including any laws or regulations adopted or envisaged covering this category of workers.***

Article 1 of the Convention. *Right of workers, without distinction whatsoever, to establish and join organizations.* The Committee notes that section 2.6 of the Act provides that all employers and workers, without distinction whatsoever, may establish and join organizations of their own choosing without prior authorization, and subject only to the rules of the organization concerned. The Committee also notes that section 45.6 of the Act recognizes the right of foreign workers to join organizations. ***The Committee requests the Government to indicate whether, in addition to the right to join organizations, foreign workers are entitled to establish organizations of their own choosing.***

Article 3. *Determination of essential services.* The Committee notes that the National Tripartite Council (established by virtue of section 4.1 of the Act) has the function to identify and recommend to the Minister services that are to be considered essential (section 41.4(a) of the Act). The Committee notes with *interest* that essential services are defined in section 41.4 of the Act as services which, if interrupted, would endanger the life, personal safety or health of the whole or any part of the population. The section also provides that the President shall, upon considering the recommendations of the National Tripartite Council, decide whether or not to designate any part of a service as an essential service and publish a notice of designation of that essential service in the *Official Gazette*. The Committee notes that the final decision on the determination of a service as essential rests with the President, who is neither bound by nor obliged to follow the recommendations of the National Tripartite Council. ***The Committee requests the Government to indicate whether, in determining services which are to be considered essential, the President is bound by the definition of essential services set out in section 41.4 of the Act. The Committee also requests the Government to provide information on how section 41.4 has operated in practice with respect to the designation of essential services.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1962)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2017 concerning issues examined in the present observation as well as matters that are being dealt with by the Committee on Freedom of Association in the framework of Cases Nos 3081 and 3202.

Legislative developments. The Committee notes the Government's indication that the Decent Work Act adopted in 2015 came into force on 1 March 2016 and that it ensures the rights enshrined in the Convention. The Committee recalls that for many years it has been commenting on the need to adopt legal provisions guaranteeing: (i) adequate protection against anti-union discrimination at the time of recruitment and during the employment relationship, accompanied by sufficiently effective and dissuasive sanctions; (ii) adequate protection for workers' organizations against acts of interference by employers and their organizations, including sufficiently effective and dissuasive sanctions; and (iii) the right to collective bargaining for employees in state-owned enterprises and public servants who are not engaged in the administration of the State.

Scope of the Convention. The Committee notes that section 1.5(c)(i) and (ii) of the Decent Work Act of 2015 (the Act) excludes from its scope of application work falling within the scope of the Civil Service Agency Act. The Committee recalls, in this respect, that in its previous report, the Government had indicated that the legislation guaranteeing the right of collective bargaining of public servants and employees in state enterprises (Ordinance on the public service) was under revision with the technical assistance of the Office. The Committee notes that no information has been provided by the Government in that respect. ***The Committee expects that the revision of the Ordinance on the public service will make it possible to give full effect to the Convention in relation to employees in state enterprises and public servants not engaged in the administration of the State and requests the Government to report any developments in this regard.***

The Committee notes that section 1.5(c)(i) and (ii) of the Act also excludes from its scope of application, officers, members of the crew and any other persons employed or in training on vessels. ***Noting that no information has been provided by the Government on legislation guaranteeing the right of collective bargaining to maritime workers, the Committee requests the Government to indicate how the rights enshrined in the Convention apply to these workers, including any laws or regulation, adopted or envisaged, covering them.***

Article 1 of the Convention. Adequate protection against anti-union discrimination. The Committee recalls that for many years it has been requesting the Government to take measures to introduce in the legislation provisions that would ensure an effective protection against anti-union discrimination. The Committee notes that section 2.6 of the Act provides that the right to form organizations and to bargain collectively are fundamental rights and that section 2.7 prohibits discrimination in the exercise of the rights conferred by the Act. The Committee also notes that section 2.11 of the Act provides for the protection of workers' freedom of association (stipulating, inter alia, that no person may prejudice or threaten to prejudice a worker because of past, present or anticipated membership of an organization of workers) and that section 2.12 of the Act provides for the protection of employers' freedom of association. The Committee notes that sections 2.11 and 2.12 provide that they operate in addition to, and to the fullest extent possible together with section 2.7 of the Act, under which discrimination overall is prohibited. The Committee notes that, while the Act does not expressly prohibit termination of employment based on anti-union discrimination, section 14.8 prohibits termination because of the exercise of rights conferred by the Act. It also notes that complaints for the violation of the rights guaranteed in the Act can be lodged to the Ministry and that the Ministry's decisions can be appealed before the Labour Court (Chapters 9 and 10 of the Act). ***Emphasizing the importance of ensuring effective protection against acts of anti-union discrimination and of providing for sufficiently dissuasive sanctions in this regard, the Committee requests the Government to provide further information on the sanctions applied in cases of acts of anti-union discrimination. It also requests the Government to provide statistics on the number of cases of discrimination examined, the duration of the procedures and the type of penalties and compensation ordered.***

Article 2. Adequate protection against acts of interference. The Committee recalls that for many years it has been requesting the Government to take measures to introduce in the legislation provisions guaranteeing adequate protection for workers' organizations against acts of interference by employers and their organizations, including sufficiently effective and dissuasive sanctions. The Committee notes with ***regret*** that the Act still contains no specific provisions on protection against interference. The Committee recalls that under the terms of *Article 2* of the Convention, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration (see the 2012 General Survey on the fundamental Conventions, paragraph 194). ***The Committee requests the Government to take the necessary measures to introduce in the legislation a prohibition of acts of interference as well as rapid appeal procedures and dissuasive sanctions against such acts. It requests the Government to report on any development in this regard.***

Article 4. Promotion of collective bargaining. The Committee notes that section 37.1(a) of the Act provides that trade unions that represent the majority of the employees in an appropriate bargaining unit are able to seek recognition as exclusive bargaining agents for that bargaining unit. It also notes that a trade union that no longer represents the majority of the employees in the bargaining unit must acquire majority within three months, if not, the employer shall withdraw recognition from that trade union (section 37.1(k)). The Committee recalls that while it is acceptable that the union which represents the majority or a high percentage of workers in a bargaining unit should enjoy preferential or exclusive bargaining rights, it considers that in cases where no union meets these conditions, or does not enjoy such exclusive rights, minority trade unions should at least be able to conclude a collective or direct agreement on behalf of their own members (see General Survey, op. cit., paragraph 226). ***The Committee requests the Government to indicate whether, if no union represents the majority of the employees in an appropriate bargaining unit, the minority unions in the same unit enjoy collective bargaining rights, at least on behalf of their members.***

Settlement of disputes affecting national interest. The Committee notes that section 42.1 of the Act provides that if the President considers it in the national interest, the President may: (i) request the Minister to appoint a conciliator to conciliate any dispute, or potential dispute, between employers and their organizations on the one hand and employees and their trade unions on the other hand; or (ii) in consultation with the National Tripartite Council, appoint a panel of persons representing the interests of employers, employees and the State to investigate any industrial conflict or potential conflict for the purpose of reporting and making recommendations to the President. ***Recalling that, pursuant to Article 4 of the Convention, the settlement of collective disputes must be consistent with the promotion of free and collective bargaining, the Committee requests the Government to provide additional information with respect to the prerogatives under section 42.1 of the Act, and to indicate the extent to which this provision provides the parties with complete freedom of collective bargaining and does not alter the principle of voluntary arbitration.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Malaysia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1961)***

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018, including allegations of anti-union discrimination. The Committee notes with ***concern*** that, despite its requests, the Government has not provided any comments on past ITUC observations, nor on the additional information it had declared to the Committee on the Application of Standards of the International Labour Conference (the Conference Committee) in June 2016 it would provide on the Malaysian Trades Union Congress (MTUC) allegations of 2015 concerning anti-union discrimination and interference. ***The Committee urges the Government to provide its comments on the 2016, 2017 and 2018 ITUC observations concerning violations of the Convention in practice, as well as on the allegations of anti-union discrimination and interference raised in 2015 by the MTUC.***

With regard to the holistic review previously announced by the Government on the main labour laws (including the Employment Act, 1955, the Trade Unions Act, 1959 and the Industrial Relations Act, 1967 (IRA)), the Committee notes that the Government indicates that the holistic review continues with the assistance of the Office and several tripartite engagement sessions have been conducted; and that the amended version of the IRA is expected to be tabled before Parliament by the second quarter of 2019. ***The Committee firmly hopes that, with the technical assistance of the Office, the Government will take into account the following comments it reiterates to ensure the full conformity of these Acts***

with the Convention and that it will be in a position to note progress in the near future. The Committee requests the Government to provide information on any developments in this regard.

Article 1 of the Convention. Adequate protection against anti-union discrimination. In its previous observation, the Committee had noted that in the past years the vast majority of reported anti-union discrimination cases were addressed through the protection procedure set out in sections 5 and 8 of the IRA (neither providing for specific sanctions, nor acknowledging explicitly the possibility of reinstatement) and that in less than 6 per cent of reported cases, use was made of the procedure concerning anti-union discrimination offences set out in section 59 of the IRA (explicitly providing for penal sanctions and the possibility of reinstatement). The Committee requested the Government to provide further detailed information as to: (i) the sanctions and compensations relating to acts of anti-union discrimination, especially in those cases where anti-union discrimination was dealt with through sections 5 and 8 of the IRA; and (ii) the factors explaining the limited use of section 59 of the IRA which sets specific sanctions for anti-union discrimination acts. The Committee notes that the Government indicates that the aggrieved parties prefer the easier and flexible process (through conciliation) provided for under section 8 of the IRA – as opposed to section 59 which requires an investigation and process before a criminal court, since the complaint is quasi-criminal in nature, and where the standard of proof is high (beyond reasonable doubt). Noting that the Government only answered to its request for information on the factors explaining the limited use of section 59, the Committee recalls the need to ensure that all procedures set out to address anti-union discrimination afford adequate protection – including adequate compensation and sufficiently dissuasive sanctions. While recognizing that criminal procedures provide for strict standards of proof, the Committee recalls the importance of avoiding obstacles to bringing an action and obtaining an appropriate remedy for anti-union discrimination (see General Survey on the fundamental Conventions, 2012, paragraph 192). In this regard, the Committee notes that reversing the burden of proof by placing the burden on the employer once a prima facie case has been made is one of the preventive mechanisms used by a number of States to afford protection against anti-union discrimination while many other States have, in such cases, lowered the burden of proof applicable to workers. The Committee considers that placing on workers the burden of proving beyond reasonable doubt that the act in question occurred as a result of anti-union discrimination in order to access adequate protection would constitute a dissuasive obstacle to bringing an action and obtaining an appropriate remedy. ***The Committee requests the Government to: (i) provide detailed information on the general remedies effectively imposed to acts of anti-union discrimination dealt with through sections 5 and 8 of the IRA, as well as the sanctions and measures of compensation in relation to anti-union discrimination acts under section 59 of the IRA; and (ii) in light of this information take any necessary measures, in consultation with the social partners and with the technical assistance of the Office in the context of the review of the IRA, to ensure that the rules and procedures relating to anti-union discrimination afford adequate protection – including adequate compensation and sufficiently dissuasive sanctions, without placing on victims a burden of proof that constitutes a major obstacle to establishing liability and ensuring an appropriate remedy.***

Articles 2 and 4. Trade union recognition for purposes of collective bargaining. Criteria and procedure for recognition. The Committee had noted in its previous comments that, under section 9 of the IRA, should an employer reject a union's claim for voluntary recognition for the purpose of collective bargaining: (i) the union has to inform the Director-General of Industrial Relations (DGIR) for the latter to take appropriate action, including a competency check; (ii) the competency check is undertaken through a secret ballot to ascertain whether the union has secured the required ballot (50 per cent plus one) of the work people or class of work people, in respect of whom recognition is being sought. The Committee had also noted that the MTUC and the ITUC had raised a number of concerns on the application of this procedure (alleging that the DGIR uses the total number of workers on the date that the union requested recognition rather than those at the ballot, which given the length of the procedure may impede the recognition of a union enjoying a majority support; that in certain instances more than 50 per cent of the workforce, being migrant, had repatriated to their home country but were considered as counting against the union for the purposes of the secret ballot; and that the secret ballot procedure does not provide protection to prevent interference from the employer). In light of the foregoing, the Committee had: (i) recalled that the recognition procedure should seek to assess the representativeness existing at the time the ballot vote takes place to take into consideration the actual size of the workforce in the bargaining unit, and that the process should provide safeguards to prevent acts of interference; and (ii) requested the Government to ensure that the right to collective bargaining is guaranteed when no union reaches the required majority to be declared the exclusive bargaining agent.

While taking due note of the Government's response that it does not impose any restrictions on minority trade unions to recruit members and re-submit a new claim for recognition in order to obtain majority, the Committee observes that this does not address the issue of the right to bargain collectively when no union reaches the required majority. ***The Committee therefore requests once again the Government to take, in consultation with the social partners and in the context of the review of the IRA, the necessary steps to ensure that the recognition process provides safeguards to prevent acts of interference, and that if no union reaches the required majority to be declared the exclusive bargaining agent, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members.***

Duration of proceedings for the recognition of a trade union. In its previous report, the Government had indicated that the average duration of the recognition process was: (i) just over three months in proceedings resolved by voluntary recognition; and (ii) four-and-a-half months for claims resolved by the Department of Industrial Relations which do not

involve judicial review. The Committee had considered that the duration of proceedings could still be excessively long and requested the Government to take any necessary measures to further reduce the length of proceedings for the recognition of trade unions. The Committee notes that the Government indicates that it is working towards improving the process, noting in particular that the Department of Industrial Relations is taking administrative and legal actions to expedite the process, and that the IRA is under holistic review. ***The Committee requests the Government to provide additional information as to the actions undertaken by the Department of Industrial Relations to expedite the process; and, in consultation with the social partners and in the context of the abovementioned review exercise, take any necessary measures to further reduce the length of proceedings for the recognition of trade unions.***

Migrant workers. In its previous comments the Committee: (i) considered that the requirement for foreign workers to obtain the permission from the Minister of Human Resources in order to be elected as trade union representatives hinders the right of trade union organizations to freely choose their representatives for collective bargaining purposes; (ii) welcomed the Government's statement that current laws do not prohibit foreign workers from becoming trade union members and that a legislative amendment would be introduced to enable non-citizens to run for election for union office if they have been legally residing in the country for at least three years; and (iii) noted the concerns raised by the Worker members at the 2016 Conference Committee that migrant workers faced a number of practical obstacles to collective bargaining, including the typical two-year duration of their contracts, their vulnerability to anti-union discrimination and a recent judicial decision in the paper industry ruling that migrant workers under fixed-term contracts could not benefit from the conditions agreed in collective agreements. The Committee observes that the Government: (i) on the one hand, reiterates that it does not impose any restriction on migrant workers to engage in collective bargaining – a right that is recognized in the IRA to all workers, including migrant workers, which may cast their votes in the recognition process, participate in negotiations and enjoy the benefits of collective agreements; but (ii) on the other hand, it does not provide any information on the measures it had announced or in response to the concerns that had been noted by the Committee, some of which are of a practical nature. ***The Committee requests the Government to inform it on the amendments made to the IRA as announced and which would address the concerns previously raised, so as to ensure the full utilization of collective bargaining by migrant workers, including as to enabling foreign workers to run for trade union office. The Committee requests the Government to provide information on any development in this respect.***

Scope of collective bargaining. The Committee had previously urged the Government to amend section 13(3) of the IRA, which contains restrictions on collective bargaining with regard to transfer, dismissal and reinstatement (some of the matters known as “internal management prerogatives”) and to initiate tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining. In its previous observation the Committee had welcomed the Government's indication that section 13(3) would be amended to remove its broad restrictions on the scope of collective bargaining. The Committee notes that the Government indicates that it is in the process of amending the IRA in accordance with the requirements of the Labour Chapter of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, in particular as to section 13(3). ***Firmly hoping that section 13(3) of the IRA will be amended in the near future to remove its broad restrictions on the scope of collective bargaining, the Committee requests the Government to provide information on any development in this respect.***

Compulsory arbitration. In its previous comments, the Committee had noted that section 26(2) of the IRA allows compulsory arbitration, by the Minister of Labour of his own motion in case of failure of collective bargaining. The Committee had requested the Government to take measures to ensure that the legislation only authorizes compulsory arbitration in essential services, in the strict sense of the term, for public servants engaged in the administration of the State or in cases of acute national crisis. In a similar vein, the Committee observes that the Committee on Freedom of Association (CFA) referred to it the follow-up of the legislative aspects of Case No. 3126, and requested the Government to bring its legislation and practice concerning the referral of interest disputes to compulsory arbitration into conformity with the principles of freedom of association (see 383rd Report, October 2017, paragraph 454). The Committee notes that in its latest report the Government indicates that it needs more information and time before any amendment is made to change the current laws and policy on compulsory arbitration and welcomes the Government's statement that it is working with the Office to ensure the amendments to the legislation are in compliance with international labour standards. ***The Committee hopes that with the technical assistance of the Office the Government will take any necessary measures to ensure that the legislation only authorizes compulsory arbitration in essential services, in the strict sense of the term, for public servants engaged in the administration of the State or in cases of acute national crisis.***

Restrictions on collective bargaining in the public sector. The Committee has for many years requested the Government to take the necessary measures to ensure for public servants not engaged in the administration of the State the right to bargain collectively over wages and remuneration and other working conditions. The Committee notes that the Government reiterates once again that, through the National Joint Council (which includes trade unions and associations in the public sector) and the Departmental Joint Council, representatives of public employees can hold discussions with and make proposals to the Government, on matters including terms and condition of service, training, remuneration, promotions and benefits. The Government adds that major trade unions, such as the Congress of Unions of Employees in the Public and Civil Services Malaysia (CUEPACS) and the National Union of the Teaching Professions Malaysia (NUTP) have been known to approach the Government directly to request for improvements in the terms and conditions of their members. The Government further asserts that while the approval of any improvements is at the Government's

discretion, Act 177 provides a dispute settlement mechanism, including the referral of a trade dispute of any governmental or statutory authority service to the Industrial Court, and that public employees may launch industrial actions such as strike and picketing (though these rights have never been exercised by public service unions, as they have never declared any deadlock in any discussion). The Government concludes that, in general, the current practice of negotiating terms and conditions of service of public employees has the rules and spirit of collective bargaining, although to a certain extent it is not in full conformity with international labour standards. In this respect, the Committee, while recognizing the singularity of the public service which allows special modalities, must recall again that it considers that simple consultations with unions of public servants not engaged in the administration of the State do not meet the requirements of *Article 4* of the Convention. ***The Committee urges the Government to take the necessary measures to ensure, for public servants not engaged in the administration of the State, the right to bargain collectively over wages and remuneration and other working conditions, in conformity with Article 4 of the Convention, and recalls that the Government may avail itself of the technical assistance of the Office.***

Application of the Convention in practice. The Committee had noted in its previous observation that the Worker members of the 2016 Conference Committee had raised concerns over the low percentage of workers covered by collective agreements in the country (according to them, 1 to 2 per cent despite the unionization rate of almost 10 per cent). ***Noting that the Government did not provide the statistical information requested, the Committee reiterates its request to the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements, as well as on any additional measures undertaken to promote the full development and utilization of collective bargaining under the Convention.***

Mexico

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1950)

The Committee notes with *interest* the approval on 20 September 2018 by the Senate of the Republic of the ratification of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

The Committee notes the observations of the Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN) and the Confederation of Employers of Mexico (COPARMEX), transmitted with the Government's report, on matters covered by the present comment. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2018, and the observations of the National Union of Workers (UNT) and the Union of Workers of the National Autonomous University of Mexico (STUNAM), received on 2 September 2018, and of the IndustriALL Global Union (IndustriALL), received on 10 September 2018, on matters covered by the present comment. The Committee also notes the reply by the Government to the observations of the ITUC and IndustriALL of 2017, providing information on the consultation process which accompanied the constitutional reform and responses to allegations of specific violations. The Committee also notes, as indicated by the Government, that some of the allegations made in these observations are the subject of cases currently before the Committee on Freedom of Association, and particularly Case No. 2694, to the examination and recommendations of which the Committee of Experts refers. ***The Committee requests the Government to continue providing its comments on the other observations relating to the application of the Convention in practice which are not covered by Case No. 2694.***

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion on the application of the Convention in the Committee on the Application of Standards of the Conference in June 2018, and its conclusions encouraging the Government to: continue to pursue further legislative action envisaged in the context of the constitutional reform in continued consultation with the social partners at the national level; ensure, in consultation with the social partners, that the secondary legislation required to enact the reforms to the Constitution and Federal Labour Act are in conformity with the Convention; continue to fulfil its existing legal obligation to publish the registration and statutes of trade unions, as well as existing collective agreements; and ensure that trade unions are able to exercise their right to freedom of association in law and practice.

Trade union rights and civil liberties. With reference to the allegations of various deaths and many persons injured and detained in the context of a dispute in the education sector in Oaxaca, the Committee notes the Government's indication that, according to the reports that the Senate of the Republic and the National Human Rights Commission published on these events, it has not been established that the cause of the events was the existence of a strike or a labour dispute or that the victims were members of a union. The Government indicates that, in relation to the other alleged acts of violence referred to in the observations of the ITUC and IndustriALL of 2015 and 2016, it is continuing to await the additional information that the organizations can provide so that it can proceed with the investigation. The Committee also notes that, in their latest observations, the ITUC and the UNT allege further acts of anti-union violence, including the murder on 18 November 2017 of two miners who were participating in a strike in the state of Guerrero, attacks on over 130 unionized university workers in San Cristobal de las Casas on 9 February 2017, another murder (referred to the Committee on Freedom of Association in the context of Case No. 2694), and the death of a trade union activist in January

2018 after receiving threats relating to the promotion of a new union (the identity of the person who died is not specified in this case). ***The Committee requests the Government to provide its comments in this regard and invites the organizations concerned to provide the Government with any additional information that they have.***

Article 2 of the Convention. Conciliation and arbitration boards. Constitutional reform of the labour justice system. With reference to its previous comments, relating to the observations of workers' organizations alleging that the operation of conciliation and arbitration boards impedes the exercise of freedom of association, the Committee previously noted with satisfaction the adoption and entry into force in February 2017 of the reform of the Political Constitution of Mexico, as part of the process to reform the labour justice system, introducing, as the main changes: that labour justice is vested with federal or local bodies of the judicial authorities (to which the functions of the boards in this respect would be transferred); that conciliation procedures (a stage that in general precedes referral to the labour courts) are more flexible and effective (with the establishment of specialized and impartial conciliation centres in each federative entity); and that the federal conciliation body is a decentralized agency with responsibility for the registration of all collective labour agreements and trade unions. The Government indicates that four initiatives have been submitted for the adoption of regulations to give effect to the constitutional reform: the Senate adopted a decision in April 2018 approving the holding of public hearings, and on 29 August 2018 a new legislature was established in the Congress of the Union, which is expected to take over and hold the hearings. It adds that nine federative authorities have now amended their constitutions to bring them into harmony with the provisions of the Federal Constitution and that, in relation to the creation of the public decentralized body for the conciliation of disputes within the federal jurisdiction and the national register of trade unions and collective labour agreements, the Secretariat for Labour and Social Welfare (STPS) has prepared administrative, organizational, technological and logistical measures for its implementation and the transfer of the files. With regard to the creation of labour courts, the judicial authorities of the Federation established in May 2018 a Reform Implementation Unit and, at the local level, the National Commission for Higher and Supreme Courts of Justice decided in May 2017 to establish a Labour Commission to follow up the implementation of the reform. The Committee further notes that the ITUC, IndustriALL and the UNT express concern in relation to the formulation of the secondary legislation for the implementation of the reform, and denounce both the delay in its adoption (the time limit was 24 February 2018), the failure to hold the consultations announced by the Government in the Committee on the Application of Standards (the UNT alleges the refusal to enter into dialogue with the democratic unions) and the attempt by senators from the corporatist trade union movement to adopt a legislative initiative with the aim of undermining the constitutional reform and perpetuating the system of protection contracts and false tripartism. The ITUC emphasizes its concerns in relation to the draft legislation referred to above: (i) it would not overcome the problems of political bias and corruption that currently affect the conciliation and arbitration boards in view of the proposal that the new decentralized body (the Federal Labour Conciliation and Registration Institute) would report to a tripartite council, which would be controlled by the organizations responsible for the protection contracts, as the STPS has indicated that the independent labour tribunals would not begin to operate until the boards have resolved all the pending cases, which number thousands and could take years); (ii) the recount procedure to challenge the validity of a collective agreement contained in the draft legislation envisages a complex administrative procedure which in practice would prevent the replacement of non-representative unions; (iii) the draft legislation envisages the weakening of the transparency measures envisaged to make public the data on unions and the collective agreements in force; and (iv) the requirement for secret ballots to be held by workers for the adoption of collective agreements is undermined by the vague provision that organizations that claim to represent workers have to demonstrate that they have their support, without determining criteria or envisaging inspections, and conferring broad discretionary power on the Institute to decide whether there is proof in this regard. The Committee also notes that the CONCAMIN and the COPARMEX both emphasize the importance of continuing to hold consultations on the legislation for the implementation of the constitutional reform. ***While noting all these concerns expressed by the social partners as well as the information provided by the Government on the implementation of the reform, the Committee once again encourages the Government to submit to a broad process of tripartite consultation the legislative texts envisaged to give effect to the constitutional reform. Reiterating that ILO technical assistance continues to be available, the Committee requests the Government to provide information on any developments in this respect.***

Trade union representativity. Trade unions and protection contracts. In its previous observation, the Committee once again requested the Government, in consultation with the social partners, to continue adopting the necessary legislative and practical measures to find solutions to the problems arising in relation to the issue of protection unions and protection contracts. The Committee recalls that for many years various national and international workers' organizations have been reporting to the ILO supervisory bodies the violation of the right to organize through protection contracts, in which they allege that non-representative trade unions, in connivance with the authorities, conclude, behind the backs of the workers, collective contracts with employers, in exchange for money and favours to be able to exercise discretion in the management of labour relations, and that the contracts reduce wages and prevent the establishment of independent unions by making it extremely difficult for them to be established once a protection contract has been registered. In this regard, the Government recapitulates the various legislative and practical measures that it has been taking with a view to finding solutions to the problems that arise in this respect, with emphasis on the following: (i) the 2012 reform of the Federal Labour Act (LFT), including the requirement for the STPS to make available to the public the content of the registered statutes, officers and records of decisions of trade unions; (ii) the system of consultation of groups of unions, the web page containing the registration of 3,371 trade unions (existing at the end of 2017) and the current records of

decisions; (iii) the possibility to consult through electronic means the collective contracts, internal work rules and current agreements deposited with the Federal Conciliation and Arbitration Board (JFCA), (iv) the 2017 constitutional reform, referred to above, which includes the objective of establishing precise rules for the flexible resolution of disputes respecting the representative status of unions and limiting abuses in relation to the signatures on collective agreements (with the Government emphasizing that in recent years in cases of disputes relating to the application of agreements, 43 per cent of the trade unions with representative rights lost the recount procedure, reflecting the freedom of workers to exercise their trade union rights, and that in cases in which violations have been alleged, the Government has always conducted the respective investigations and provided the relevant information to the ILO); (v) the adoption of a labour inspection protocol on the freedom to conclude collective contracts (which requires employers to produce various documents during an inspection, including proof that the workers were informed of the collective contract, under the terms of which, between 2016 and September 2018, a total of 217 inspections were carried out, with the identification of 528 potential violations and benefiting 71,687 workers); and (vi) the ratification of Convention No. 98. The Committee further notes that the ITUC, IndustriALL and the UNT allege that, despite the measures adopted, the practice of protection unions and contracts persists in the country, and that they are even registered before enterprises start operating. IndustriALL refers to examples of violations of the Convention brought before the CFA in Case No. 2694 and emphasizes the importance of the provision of ILO technical assistance. The ITUC and the UNT also denounce irregularities in the treatment of applications for representative status to conclude collective contracts. Finally, the Committee notes that the CONCAMIN and the COPARMEX emphasize the importance of ensuring the real representative status of trade unions. ***Noting with deep concern the various assertions made, the Committee encourages the Government to submit the issues raised to broad discussion with the social partners concerned and urges the Government to take any additional legislative and practical measures that are necessary to resolve the problems raised by the issue of protection unions and contracts in relation to the exercise of the rights and guarantees set out in the Convention. Reiterating the continued availability of ILO technical assistance and hoping that the implementation of the constitutional reform and the adoption of the secondary legislation will provide an opportunity to continue making progress in addressing these problems, the Committee requests the Government to provide detailed information on any developments in this respect.***

Publication of the registration of trade unions. The Committee notes that the Committee on the Application of Standards, in June 2018, requested the Government to continue to fulfil its existing legal obligation to publish the registration and statutes of trade unions, as well as existing collective agreements. The Committee notes that the Government reiterates the information that it provided to the Committee on the Application of Standards that: (i) by 30 April 2018, information on 3,422 trade union organizations (unions, federations and confederations) registered with the federal authorities had been published through the “trade union consultation system”, and that to date the system has recorded 254,512 consultations and the JFCA regularly enters and publishes all collective contracts; (ii) with regard to registers at the local level, the conciliation and arbitration boards are meeting their obligations in terms of transparency through the various mechanisms provided for in section 124(V) of the General Act on Transparency and Access to Public Information; and (iii) these obligations will be transferred to the decentralized public body following the adoption and entry into force of secondary legislation. The Committee also notes that: (i) the UNT alleges that the great majority of federative authorities do not publish on their Internet pages the collective labour contracts that are registered day by day; and (ii) the ITUC expresses concern with regard to the main draft secondary legislation for the implementation of the constitutional reform, which it considers could weaken the transparency measures envisaged for the publication of data on trade unions and collective agreements. ***The Committee requests the Government to continue providing information on the legal requirement for the conciliation and arbitration boards to publish trade union registrations and statutes, and on the impact of the implementation of the new constitutional reform and its secondary legislation on the procedure of trade union registration, including the publication of trade union registrations and statutes.***

Articles 2 and 3. Possibility of trade union pluralism in state bodies and the possibility to re-elect trade union leaders. The Committee recalls that for many years it has been asking the Government to take measures to amend the following provisions: (i) the prohibition of the coexistence of two or more unions in the same state body (sections 68, 71, 72 and 73 of the Federal Act on State Employees (LFTSE)); (ii) the prohibition on trade unionists from leaving the union of which they have become members (section 69 of the LFTSE); (iii) the prohibition on unions of public servants from joining trade union organizations of workers or rural workers (section 79 of the LFTSE); (iv) the reference to the Federation of Unions of Workers in the Service of the State (FSTSE) as the single central trade union federation recognized by the State (section 84 of the LFTSE); (v) the legislative declaration establishing the trade union monopoly of the National Federation of Banking Unions (FENASIB) (section 23 of the Act issued under Article 123B(XIIIbis) of the Constitution); and (vi) the prohibition on the re-election of trade union officers (section 75 of the LFTSE). The Committee notes the Government’s reiterated indication that, in accordance with the case law of the Supreme Court of Justice, these legislative restrictions on the freedom of association of public servants are not applied, and emphasizes that the re-election of trade union officers is possible and that multiple unions can be registered, and the fact that the applicant unions are in the same body is not an obstacle to them obtaining registration (it refers, by way of illustration, to the case of the Secretariat of Communications and Transport of the Federal Executive Authority, for which eight unions are registered). The Government indicates that the members of the Chamber of Deputies have submitted various initiatives for the amendment of the provisions in question, provides detailed information on ten initiatives which were not approved by the legislative body and refers to a recent initiative of 26 July 2017 which proposes the amendment of most of the provisions

referred to above (sections 68, 69, 71–73, 79 and 84), which is awaiting a decision. The Committee also notes that the UNT recalls the LFTSE was adopted in 1963, when the Committee immediately pointed out that was not in conformity with the Convention, and the UNT alleges that the Government's assertion that the provisions in question are not applicable is a very partial description of the actual situation, as the rulings of the Supreme Court did not imply the repeal of the provisions, resulting in the need for workers who require the application of the criteria set out by the Supreme Court to engage in very lengthy procedures. ***Recalling the need to ensure the conformity of the legislative provisions with the Convention, even when they are in abeyance or are no longer applied in practice, the Committee once again requests the Government to take the necessary measures to amend the restrictive provisions referred to above in order to bring them into conformity with national case law and the Convention, and to provide information on any developments in this regard.***

Article 3. Right to elect trade union representatives in full freedom. Prohibition on foreign nationals becoming members of trade union executive bodies (section 372(II) of the LFT). In its previous comments, the Committee noted the Government's indications that: (i) section 372(II) of the LFT, which prohibits foreign nationals from becoming members of trade union executive bodies, was tacitly repealed by the amendment to section 2 of the Act, which prohibits all discrimination based on ethnic or national origin; and (ii) the registration authorities do not require trade union leaders to have Mexican nationality, and this prohibition is not applied in practice. The Committee notes that in its latest report the Government reiterates that the legislative restriction is not applied in practice. ***Recalling once again the need to ensure the conformity of the legislative provisions with the Convention, even if they are in abeyance or are not applied in practice, the Committee requests the Government to take the necessary measures to amend section 372(II) of the LFT with a view to making explicit the tacit repeal of this restriction.***

The Committee is raising other matters in a request addressed directly to the Government.

Mozambique

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

The Committee had previously requested the Government to provide its comments on the 2008 observations made by the International Trade Union Confederation (ITUC) regarding the serious acts of violence committed against striking workers in the sugar-cane plantation sector. The Committee notes the Government's indication that the Labour Mediation and Arbitration Commission (COMAL), created in 2009 to promote social dialogue, has not received any reports of violence against workers in this sector. The Committee notes with ***regret*** the lack of action taken by the Government to investigate the alleged acts of violence brought to its attention by the Committee in 2008. The Committee emphasizes that where cases of alleged violence are brought to the Government's attention, the competent authorities should begin an inquiry immediately and take appropriate measures to bring the perpetrators to justice. ***The Committee expects that the Government will give full effect to this principle in the future.***

Article 2 of the Convention. Registration of workers' and employers' organizations. In its previous comments, the Committee had requested the Government to take the necessary measures to revise section 150 of the Labour Act, which allows the central authority of the labour administration an unduly restrictive period of 45 days to register a trade union or an employers' organization. The Committee notes the Government's indication that this matter will be considered during the revision of the current Labour Act. ***The Committee therefore expects that the Government will take the necessary legislative measures, in full consultation with the social partners, to bring section 150 of the Labour Act into conformity with the Convention. It requests the Government to keep it informed on any progress achieved in this regard. In the meantime, the Committee requests the Government to provide information on the application of section 150 in practice (number of trade unions registered in a year and the time taken by the requesting authorities to register a union).***

Article 3. Penal responsibility of striking workers. The Committee had previously requested the Government to take the necessary measures to amend section 268(3) of the Labour Act, under the terms of which, any violation of sections 199 (freedom to work of non-strikers), 202(1) and 209(1) (minimum services) constitutes a breach of discipline for which workers who are on strike are liable under both civil and penal law. Noting the Government's indication that the issues above will be considered for action, the Committee recalls that penal sanctions may only be envisaged where, during a strike, violence is committed against persons or property, or other serious breaches of the law, and only in accordance with the provisions punishing such offences. ***The Committee reiterates its previous request and expects that all necessary measures will be taken by the Government, in full consultation with the social partners, so as to amend section 268(3) of the Labour Act. It requests the Government to inform of any progress achieved in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1996)

The Committee had previously requested the Government to provide its comments on the 2010 observations made by the International Trade Union Confederation (ITUC) regarding acts of anti-union discrimination in export processing

zones and the consistent violation of collective agreements. *Noting with regret that the Government did not provide any information in this respect, the Committee reiterates its previous request.*

Articles 1 and 2 of the Convention. Protection against anti-union discrimination and interference. The Committee had previously requested the Government to provide information on the number of complaints received concerning acts of anti-union discrimination and interference, and on the number of fines imposed, with a view to being able to assess whether the penalties envisaged were sufficiently dissuasive. The Committee notes the Government's indication that: (i) the Labour Mediation and Arbitration Commission (COMAL), a tripartite body created in 2009, has processed, from its inception in 2010 until the first half of 2018, 60,888 cases, resulting in 48,229 agreements and 12,659 deadlocks; and (ii) 83 per cent of labour-related cases have been resolved through this extrajudicial mechanism, demonstrating the usefulness of this mechanism for resolving labour-related conflicts. *While welcoming the creation of the COMAL and the promotion of extrajudicial mechanisms in labour-related conflicts in general, the Committee requests once again the Government to provide specific information on the number of complaints, including judicial complaints, concerning acts of anti-union discrimination and interference and the number of fines imposed. The Committee hopes that the Government will make every effort to take the necessary action in the near future.*

The Committee is raising other matters in a request addressed directly to the Government.

Myanmar

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1955)

The Committee notes the observations made by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2018.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2018 concerning the application of the Convention. The Committee observes that the Conference Committee regretted the absence of progress with respect to the long-awaited legal framework in which workers and employers may freely exercise their rights under the Convention and urged the Government to: (i) ensure that the Labour Organization Law (LOL) and the Settlement of Labour Disputes Law are brought into full compliance with the Convention by availing itself of ILO technical assistance during the legislative reform process; (ii) ensure that workers are able to carry out their trade union activities without threat of violence or other violations of their civil liberties by police or private security; (iii) ensure that the registration of workers' and employers' organizations is not subject to unreasonable requirements to guarantee that the right to join or establish organizations of their own choosing is not hindered in practice; (iv) ensure that applications for union registration are acted upon expeditiously and are not denied unless they fail to meet clear and objective criteria set forth in the law; and (v) bring the labour legislation in Special Economic Zones (SEZs) into conformity with the Convention, with full consultation of the social partners. The Conference Committee further requested the Government to accept a direct contacts mission and to report on progress made on its recommendations to the Committee of Experts for its meeting in November 2018.

The Committee notes that the direct contacts mission took place from 1 to 4 October 2018 and welcomes the manner in which the Government and the Myanmar workers' and employers' organizations constructively engaged and collaborated with the mission. In particular, the Committee notes with interest from the mission report conclusions that all parties had shown an important degree of commitment to building a climate for full respect of freedom of association in the short time that had elapsed since the entry into force of the freedom of association framework legislation. *The Committee encourages the continued development of a conducive environment for the full application of the Convention.*

Labour law reform process. The Committee recalls that in its previous comments it had requested the Government to provide information on the progress made in labour law reform.

Article 2 of the Convention. As regards the LOL, the Committee notes the Government's indication that it has initiated the labour law reform process within the framework of the National Tripartite Dialogue Forum (NTDF) which has met on numerous occasions with the technical assistance of the Office. While the draft amendment law is still being reviewed internally, the Government refers to a number of proposed changes, including the elimination of the additional 10 per cent requirement to form a basic labour organization, as previously requested by the Committee. The Committee further notes the Government's indication that, since the law's entry into force, it has registered 2,761 basic labour organizations, 146 township labour organizations, 22 region or state labour organizations, eight labour federations and one labour confederation. The Government also refers to 26 basic employer organizations, one township employer organization and one employer federation formed under the law. The Committee notes that in order to gain a greater understanding of the obstacles encountered by workers wishing to form organizations, officials from the Ministry for Labour, Immigration and Population held nationwide consultations with a number of basic and township level organizations. The Committee recognizes, as the Government itself does, that a great deal of the country's population is

spread out in townships and districts far away from the centralized authority, where the awareness of the national law and ratified international Conventions is likely to be quite limited. *The Committee encourages the Government to pursue these consultations throughout its territory so as to ensure that all workers and employers, without distinction whatsoever, are able, not only in law but also in practice, to fully exercise their rights under the Convention, bearing in mind key difficulties faced by parts of the population, such as those in remote areas.*

The Committee further recalls its request for information on the outcome of any review of the impact of the pyramidal structure for organizing set out in section 4 of the law. *Noting from the direct contacts mission report that this imposed structure poses a problem for the formation of both workers' and employers' organizations, the Committee requests the Government to take the necessary measures to ensure that workers and employers may form and join organizations of their own choosing in law and in practice, including at sectoral level, and to provide a copy of the proposed amendments once they have been submitted to Parliament.*

The Committee also notes the allegations in the ITUC observation that unions are often denied registration for arbitrary reasons, including requests that executive committee members submit resumes, that all union members submit photocopies of national identity cards, and that a letter from the factory be produced showing that it has been informed of the attempt to register a union. The Committee notes with *interest* from the mission report that the Ministry has followed up at township level following nationwide consultations on the obstacles encountered and has published a Directive instructing labour officers to cease requesting such documents that are not required by law, while facilitating identity cards for founding members. *The Committee requests the Government to provide information on any denials of registration, including reasons for such decisions and procedures for review and appeal of such denials.*

Article 3. The Committee recalls its previous comments concerning certain restrictions for eligibility to trade union office set out in the Rules to the LOL, including the obligation to have been working in the same trade or activity for at least six months (no initial time period should be required) and the obligation for foreign workers to have met a residency requirement of five years (this period should be reduced to a reasonable level such as three years). The Committee further notes the concerns expressed by the ITUC at the requirement that trade union officers must be 21 years of age. *The Committee once again expresses its expectation that these requirements will be reviewed within the framework of the legislative reform process in consultation with the social partners so as to ensure the right of workers to elect their officers freely, and requests the Government to indicate the measures taken to amend Rule 5.*

Furthermore, recalling its previous comments concerning the requirement to obtain permission from the relevant labour federation under section 40(b) of the LOL in order to go on strike, the Committee requests the Government to inform of the progress made in amending this provision within the framework of the labour law review.

As regards the Settlement of Labour Disputes Law, the Committee notes the Government's indication that a draft amended law was being discussed in Parliament and was addressing the need to extend the tenure of dispute settlement bodies and to amend the sanctions set out in the law to be suitable to the national context. *Trusting that the text once adopted will have eliminated any sanctions of imprisonment, while ensuring effective protection of the right to organize, the Committee requests the Government to transmit a copy of the amended law.*

Civil liberties. In its previous comments, the Committee took note of the new Law on the Right to Peaceful Assembly and Peaceful Procession which was adopted on 4 October 2016. Observing that the Chapter on Rules and the corresponding Chapter on Offences and Penalties could still give rise to serious restrictions of the right of organizations to carry out their activities without interference, the Committee requested the Government to provide information on the manner in which this law was applied and any sanctions issued. The Committee notes the Government's indication that the Myanmar police force does not restrict rights or take any action beyond the law but that violations of the law must be punished. The Government further indicates that every citizen is responsible for public peace and prevalence of law and order.

The Committee also notes the concerns expressed by the ITUC that the Upper House of Parliament passed amendments to this law on 7 March 2018 which provided in section 18 that anyone who supports a protest either financially, materially or through other means would be deemed in breach of national security, the rule of law, public order or public moral and could face up to three years in prison and a fine. The Committee understands from the mission report that this provision has not been finally adopted by the Union Parliament. *It requests the Government to ensure that workers and employers are able to carry out and support their activities without threat of imprisonment, violence or other violations of their civil liberties by police or private security and to inform of any further development in relation to the proposed amendment, as well as any sanctions imposed on workers' or employers' organizations under the Law on the Right to Peaceful Assembly and Peaceful Procession.*

Special economic zones (SEZs). In its previous comments, the Committee requested the Government to take any necessary measures to guarantee fully the rights under the Convention to workers in SEZs, including by ensuring that the SEZ Law does not contradict the application of the LOL and the Settlement of Labour Disputes Law in the SEZs. It further requested the Government to provide detailed practical information on the manner in which disputes in the SEZs are settled, and to provide relevant statistics concerning labour inspection in the SEZs, including the number of SEZ inspections carried out by labour inspectors, any violations detected, and the nature and number of sanctions.

The Committee notes the Government's indication that the Ministry of Labour, Immigration and Population collaborates with the Management Committee in the Thilawa Special Economic Zone in respect of labour matters, including settlement of disputes. The one-stop service centre (OSSC) labour section has collected monthly reports from every company and conducts inspection and supervision to ensure factories are implementing their commitments. The OSSC labour section serves as a negotiator or mediator to resolve disputes, having solved 24 cases in 2017 and 16 cases up to August 2018. The section also holds information sharing discussions on labour laws. Additionally, officers from the Factories and General Labour Laws Inspections Department make monthly visits to the factories to explain the social welfare laws. The ILO was also invited in 2016 to convene a seminar in the Thilawa Special Economic Zone on the right to organize, while the chairperson of the management committee has requested ILO assistance in drafting labour guidelines for employers and employees. The Government affirms that the SEZ Management Committee will not create any obstacles to activity organized by workers and employers relating to forming of associations, drawing their constitutions, electing their representatives and expressions in line with existing Myanmar laws.

The Committee also notes however the concerns raised by the ITUC that the SEZ Law imposes dispute settlement awards without the consultation of the social partners and that the SEZ Management Committees are composed without workers' representatives. ***The Committee requests the Government to reply to these concerns. Noting from the direct contacts mission report the Government's renewed request to the ILO to carry out awareness-raising activities in the zones on the rights under the Convention and the requests for the development of labour guidelines, the Committee trusts that this assistance will be provided in the near future and requests the Government to inform of the progress made in this regard.***

Nepal

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1996)***

The Committee takes due note of the comments provided by the Government in response to the 2017 observations of the International Trade Union Confederation (ITUC), as well as to the 2014 observations made by Education International. In this regard, the Committee notes that the Government indicates that: (i) section 16(e) and (j) of the Education Act, 1971 (7th amendment), allows teachers of public and private schools to form unions and to bargain collectively and provides for dispute settlement, and (ii) both formal and informal sectors are covered under the new Labour Act, 2017.

Article 1 of the Convention. Adequate protection against anti-union discrimination. In its previous comments, the Committee had requested the Government to take the necessary measures to introduce in the legislation: (i) an explicit prohibition of all prejudicial acts committed against workers by reason of their trade union membership or participation in trade union activities at the time of recruitment, during employment or at the time of dismissal (for example transfers, demotions, refusal of training, dismissals, etc.); and (ii) effective and sufficiently dissuasive sanctions in cases of violation of this prohibition. The Committee notes that the Government indicates that if any worker experiences discrimination while carrying out legitimate trade union activities, including discrimination based on ideology, religion, gender and other grounds, then he/she can file a complaint to the competent authorities as per sections 9 and 162 of the Labour Act, 2017. In addition, as per section 165 of the Labour Act, this worker has the right to appeal, against the decision. The Committee recalls that the prohibition of discrimination provided for under section 6 of the Labour Act, as well as section 24 of the Constitution of 2015, do not contain an explicit prohibition of discrimination against workers by reason of their trade union membership or participation in trade union activities. ***In view of the above, the Committee once again requests the Government to take the necessary measures to introduce in the legislation: (i) an explicit prohibition of all prejudicial acts committed against workers by reason of their trade union membership or participation in trade union activities at the time of recruitment, during employment or at the time of dismissal (for example transfers, demotions, refusal of training, dismissals, etc.); and (ii) effective and sufficiently dissuasive sanctions in cases of violation of this prohibition. The Committee requests the Government to provide information on any progress made thereon in its next report.***

Article 2. Adequate protection against acts of interference. In its previous comments, the Committee requested the Government to provide information on the sanctions applied in cases of acts of interference as well as on statistics on the number of complaints examined, the duration of the procedures and the type of penalties and compensation ordered. The Committee notes that the Government indicates that the legal provisions introduced by the Labour Act under Chapter 14 have safeguarded the interest of employers and workers and have ensured the protection against interference from each other. The Committee also notes that the Government indicates that during the reporting period no case of interference has been reported or brought to its attention. ***The Committee requests the Government to continue to provide information in this regard, with particular emphasis on the sanctions applied in cases of acts of interference.***

Article 4. Promotion of collective bargaining. In order to fully evaluate the conformity of section 116.1 of the Labour Act with the Convention, the Committee in its previous comments requested the Government to specify the conditions under which trade unions are authorized to bargain collectively and to provide information on the number of direct agreements concluded with non-unionized workers in comparison with the number of collective agreements signed with trade unions. The Committee notes that the Government limits itself to indicating that section 116.1 of the Labour

Act provides that any enterprise employing ten or more workers shall have a collective bargaining committee and that such a committee is comprised of: (a) a team of representatives appointed for negotiation on behalf of the elected authorized trade union of the enterprise; (b) where an election for the authorized trade union could not be held or the term of the elected authorized trade union has expired, a team of representatives nominated through a mutual agreement of all the unions in the enterprise; or (c) where an authorized trade union or a team of representatives could not be formed, a team of representatives supported with the signatures of more than 60 per cent of the workers working in the enterprise. The Committee wishes to recall that: (i) direct bargaining between the enterprise and its employees with a view to avoiding sufficiently representative organizations, where they exist, may undermine the principle of the promotion of collective bargaining set out in the Convention; and (ii) where there exists a representative trade union and it is active within the enterprise or branch of activity concerned, the authorization for other worker representatives to bargain collectively not only weakens the position of the trade union, but also undermines ILO rights and principles on collective bargaining. **Therefore the Committee requests once again the Government to specify the conditions under which trade unions are authorized to bargain collectively.** The Committee finally notes that the Government provided data on collective agreements registered in the Labour Office, for the period 2014–17, with the number of workers covered. **The Committee requests the Government to continue to provide information in this respect and to specify the number of direct agreements concluded with non-unionized workers in comparison with the number of collective agreements signed with trade unions, and indicating the sectors and the number of workers covered.**

In its previous comments the Committee requested the Government to take the necessary measures to amend section 123 of the Labour Act so that the principle of the autonomy of the parties is respected and that collective bargaining is possible at any level whatsoever, including that of the establishment, the undertaking, the branch of activity, the industry or the regional or national levels. Noting that the Government does not provide any information in this regard, the Committee wishes to reiterate that under the terms of *Article 4* of the Convention, collective bargaining must be free and voluntary and respect the principle of the autonomy of the parties. The Committee also recalls the need to ensure that collective bargaining is possible at all levels and that legislation that unilaterally imposes a level of bargaining or makes it compulsory for bargaining to take place at a specific level raises problems of compatibility with the Convention (see 2012 General Survey on the fundamental Conventions, paragraphs 200 and 222). In view of the above, the Committee hopes that the necessary amendments to bring section 123 of the Labour Act into full conformity with the provisions of the Convention will be adopted in the very near future.

Compulsory arbitration. In its previous comments, the Committee requested the Government to bring the provisions under section 119 of the Labour Act relating to compulsory arbitration into full conformity with the Convention, recalling that compulsory arbitration to end a collective labour dispute is acceptable only: (i) in the public service involving public servants engaged in the administration of the State (*Article 6* of the Convention); (ii) in essential services in the strict sense of the term, namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population; or (iii) in case of acute national crisis. **Noting that the Government did not provide any information on this respect, the Committee once again requests the Government to take the necessary measures to ensure that, in accordance with the Convention, compulsory arbitration can only take place in the situations mentioned above. The Committee requests the Government to provide information on any progress in this respect.**

Composition of arbitration bodies. In its previous comments, the Committee requested the Government to provide detailed information with respect to the composition of the arbitration panel (under section 119(3) of the Labour Act) and tribunal (section 120) and specifically to indicate the procedure undertaken to select the worker and employer representatives to ensure the full independence of these arbitration bodies. It also requested the Government to clarify the difference between the arbitration panel and the arbitration tribunal. **Noting that the Government did not provide information on these issues, the Committee reiterates its previous requests.**

The Committee reminds the Government that it may avail itself of the technical assistance of the Office with respect to all issues raised in its present comments.

Nigeria

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1960)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion which took place in the Committee on the Application of Standards of the International Labour Conference (hereinafter, the Conference Committee) in June 2018 concerning the application of the Convention by Nigeria. The Committee observes that the Conference Committee, in its conclusions, urged the Government to: (i) bring relevant legislation, including the Trade Unions Act, Trade Disputes Act, Wages Board and Industrial Council Act, the 1992 Decree on Export Processing Zones and the Collective Labour Relations Bill into line with the Convention; (ii) conduct effective investigations and carry out prosecutions with respect to all allegations of anti-

union violence and discrimination; and (iii) put adequate and effective enforcement mechanisms in place to ensure that the principles and rights protected by the Convention are effectively applied in practice. Lastly, the Conference Committee repeated the Committee of Experts' invitation to the Government to accept an ILO direct contacts mission which was to report during the current year on progress made. ***Observing that the direct contacts mission has not yet taken place, the Committee expresses the hope that the Government will accept it in the near future so that the mission can observe the measures taken and the progress achieved regarding the issues raised in relation to the application of the Convention.***

The Committee recalls that it has been referring for many years to observations received from international trade union organizations, in particular the International Trade Union Confederation (ITUC) and Education International (EI), and from a national union (the Nigeria Union of Teachers (NUT)), describing acts of anti-union discrimination, interference and obstruction with regard to collective bargaining, without the Government having sent its comments in this regard. The Committee notes the statement made by the Government representative to the Conference Committee in June 2018, indicating that the country operates a complex social and economic structure, with a federal State and 36 autonomous state governments, and whenever infringements committed by state governments are brought to the attention of the federal Government, the latter, which has responsibility for administering labour issues, makes sure to invite the parties to resolve the issues. For example, with regard to the allegation of the mass dismissal of anti-union nature, in the education sector in the state of Kaduna, the Government indicates that the challenged decision was taken further to a two-year dialogue with the national teaching union to settle the problem of the fraudulent appointment of unqualified staff in primary schools. ***The Committee requests the Government to provide information on any investigations, and the results thereof, into the allegations of anti-union discrimination and interference in the banking, education, electricity, petroleum, gas and telecommunications sectors, as referred to in successive communications from the ITUC. The Committee also requests the Government to send its comments on the allegations of EI and the NUT denouncing the promotion of a non-registered union in the education sector by various state governments, which would appear to constitute attempted interference.***

Scope of application of the Convention. In its previous comments, the Committee noted that under the provisions of the legislation certain categories of workers (such as employees of the Customs and Excise Department, the Immigration Department, the prison services and the Central Bank of Nigeria) are denied the right to organize and are deprived of the right to collective bargaining. The Government indicates that these exclusions are made on the grounds of the national interest and national security and that the joint advisory committees established in these institutions take care of the interests of the workers, who often enjoy better conditions of work than those employed in other sections of the public sector. Lastly, the Government points out that the proposal to remove the prohibition on the right of these categories of workers to organize will be referred to the National Labour Advisory Council (NLAC), which is due to meet in the course of the year. The Committee emphasizes that the exclusion of the abovementioned categories from the right to organize raises issues of compatibility with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and that it will consider this matter when it next examines the application of Convention No. 87 by Nigeria. ***Noting that some of the abovementioned categories involve public sector workers not engaged in the administration of the State, the Committee requests the Government to provide information on the results of the consultations within the NLAC and any follow-up action taken, particularly with regard to recognition of the right to collective bargaining.***

Article 4. Free and voluntary negotiation. The Committee recalls that, further to allegations made by ITUC, it asked the Government to provide explanations regarding the legal obligation to submit any collective agreements on wages to government approval. The Committee recalled that legal provisions which make collective agreements subject to the approval of the Ministry of Labour for reasons of economic policy, so that employers' and workers' organizations are not able to fix wages freely, are not in conformity with *Article 4* of the Convention respecting the promotion and full development of machinery for voluntary collective negotiation. The Committee notes the Government's reply that the legal obligation to file collective agreements with the Federal Ministry of Labour only exists for the purposes of registration and verification of their implementation. Moreover, while indicating that in practice there is no restriction with regard to wage increases, in terms of figures or percentages, adopted by an employer, the Government indicates that the question of the prohibition on an employer to grant a general wage increase without ministerial approval, which appears in section 19 of the Trade Disputes Act, will be brought to the attention of the tripartite technical committee which is currently reviewing the labour legislation. The Committee notes the explanations provided by the Government and recalls that the legal provisions establishing the obligation to submit collective agreements for prior approval by the authorities are only compatible with the Convention when they are confined to stipulating that approval may be refused if the agreement has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation (see 2012 General Survey on the fundamental Conventions, paragraph 201). ***The Committee requests the Government to provide information on any measures taken to ensure that the law is aligned with the practice as mentioned and gives full effect to the principle of voluntary collective negotiations in accordance with the provisions of the Convention.***

Noting the Government's statement that it intends to ensure that the reform of the labour legislation in progress which it is undertaking in consultation with the social partners is in conformity with international labour standards, the Committee trusts that the new Collective Labour Relations Act and any other texts adopted in the context of the

reform of the Labour Law will be in full conformity with the requirements of the Convention. The Committee requests the Government to send copies of the aforementioned texts when they have been adopted.

Pakistan

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1951)

The Committee notes the observations of the Pakistan Workers Federation (PWF) received on 19 October 2017 referring mainly to legislative issues under examination by the Committee; as well as the observations of the International Trade Union Confederation (ITUC), received on 1 September 2018 alleging a ban on a strike in the health sector, a refusal to grant demonstration permission to nurses and new incidents of police violence against protesting and striking workers in health, education, transports and tourism sectors and their arrest, detention and criminal prosecution. ***The Committee requests the Government to provide its comments thereon.*** It also notes the ITUC observations received on 1 September 2017 and the Government's reply thereto.

In its previous comments the Committee had noted acts of violence against protesting and striking workers and their arrest alleged by the ITUC in 2015. The Committee notes with ***concern*** that the Government has not replied to these allegations and that, in its latest observations, the ITUC alleges new incidents of police violence, arrest, detention and prosecution of workers under terrorism charges for trade union activities. Noting the Government's reply to the ITUC 2017 observations, the Committee ***deplores*** in particular the killing by law enforcement forces of two Pakistan International Airline (PIA) workers and injuring of several others during a protest against privatization plans concerning the company on 2 February 2016. It notes the Government's indication that monetary compensation was paid to the families of the victims and to the injured workers. However, the Committee notes with ***regret*** that no information is provided with regard to any investigation into the violent conduct of the law enforcement forces or with regard to the alleged kidnapping of four union leaders and members in the early hours of 3 February 2016 in connection with the PIA labour dispute. ***Recalling that the ILO supervisory bodies have unceasingly stressed the interdependence between civil liberties and trade union rights, and emphasizing that a truly free and independent trade union movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations, the Committee urges the Government to provide its comments on all allegations of acts of violence against workers and their alleged arrest, detention and charging for trade union activities, and to ensure that investigations are conducted by the public authorities into the relevant 2015, 2017 and 2018 ITUC allegations and that sanctions are imposed against law enforcement forces.***

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee previously noted that the Industrial Relations Act (IRA) 2012, excludes the following categories of workers from its scope of application: workers employed in services or installations exclusively connected with the armed forces of Pakistan, including the Ordnance Factory maintained by the Federal Government (section 1(3)(a)); workers employed in the administration of the State other than those employed as workmen (section 1(3)(b)); members of the security staff of the Pakistan International Airlines Corporation (PIAC), or drawing wages in a pay group not lower than Group V in the PIAC establishment (section 1(3)(c)); workers employed by the Pakistan Security Printing Corporation or Security Papers Limited (section 1(3)(d)); workers employed by an establishment or institution for the treatment or care of sick, infirm, destitute and mentally unfit persons, excluding those run on a commercial basis (section 1(3)(e)); and workers of charitable organizations (section 1(3) read together with section 2(x) and (xvii)).

The Committee had further noted that section 1 of the Balochistan Industrial Relations Act (BIRA) 2010, the Khyber-Pakhtoonkhwa Industrial Relations Act (KPIRA) 2010, and the Punjab Industrial Relations Act (PIRA) 2010, further excludes: (i) workers employed in services or installations exclusively connected with or incidental to the armed forces of Pakistan, including the Ordnance Factory maintained by the Federal Government; (ii) members of the watch and ward, security or fire service staff of an oil refinery or an airport (and seaport – the BIRA and KPIRA); (iii) members of the security or fire service staff of an establishment engaged in the production, transmission or distribution of natural gas or liquefied petroleum gas; (iv) persons employed in the administration of the State except those employed as workmen by the railway and Pakistan Post; and (v) in the PIRA and KPIRA, persons employed in an establishment or institution providing education or emergency services excluding those run on a commercial basis. The Committee also noted that section 1 of the Sindh Industrial Relations Act (SIRA) 2013, excludes all abovementioned five categories of workers, except for the members of the watch and ward, security or fire service staff of a seaport and that the BIRA as amended in 2015 retained the exclusions enumerated above. The Committee requested the Government to ensure that federal and provincial legislation guarantees the abovementioned categories of workers the right to establish and join organizations of their own choosing with the only exception of the armed forces and the police that must be construed in a restrictive manner. The Committee notes the Government's indication that the restrictions set out in provincial acts are specific in nature and need to be imposed in the cases provided, any kind of industrial action may lead to serious security breach or irreparable loss to the public at large. The Committee notes with ***regret*** the Government's indication that the proposed BIRA Bill 2017 retains the same exceptions. Furthermore, the Government indicates that persons employed in the

administration of the State and performing their duties connected with the affairs of the armed forces or the police may not be given the right to agitate or go on strike. The Government indicates, however, that workers in private security firms are allowed to form unions and different categories of employees have formed unregistered unions/associations under KPIRA 2010 and are successfully defending their social, economic and occupational interests.

Noting that the Government expresses concern with regard to the consequences of industrial action in these services, the Committee wishes to point out the distinction between the right to establish and join a union, of which only the armed forces and the police can be deprived, and the right to strike, which may be restricted to certain categories of public servants, essential services in the strict sense of term, and situations of acute national or local crisis. The Committee further recalls that the exceptions to the right to establish and join a union that relate to the armed forces and the police do not automatically apply to all employees who may carry a weapon in the course of their duties or to civilian personnel in the armed forces, fire service personnel, workers in private security firms and members of the security services of civil aviation companies, workers engaged in security printing services and members of the security or fire services of oil refineries, airports and seaports. The Committee emphasizes that these workers, without distinction whatsoever, should be granted the right to establish and join organizations of their own choosing. The Committee once again recalls that the right to strike is not absolute and may be restricted in exceptional circumstances, or even prohibited, for example in essential services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. ***In view of the above, the Committee once again requests the Government to ensure that the federal as well as all provincial governments take the necessary measures in order to ensure that the legislation guarantees the abovementioned categories of employees the right to establish and join organizations of their own choosing to further and defend their social, economic and occupational interests, and to provide detailed information on any progress made in this respect. As regards public service, the Committee again requests the Government to provide legislative and other information detailing how the associations of public officials and employees of publicly owned undertakings benefit from the trade union rights enshrined in the Convention.***

Managerial employees. The Committee previously noted that, pursuant to sections 31(2) of the IRA and 17(2) of the BIRA, KPIRA, SIRA and PIRA, an employer may require that a person, upon his or her appointment or promotion to a managerial position, shall cease to be and shall be disqualified from being a member or an officer of a trade union. In this respect, the Committee notes with **concern** the observation of the PWF alleging that as a result of these provisions, a workman on promotion has to leave the trade union and become deprived of the benefit of collective bargaining and collective agreement and so is unable to pursue efforts to improve standard of living and so most of the workers are compelled to live around the poverty line. The Committee recalls in this respect that it has always considered that senior managerial staff may be denied the right to join the same organizations as other workers, provided that they have the right to form their own organizations to defend their interests. It notes the Government's indication that managerial workers, who are assimilated to employers under the law, have the inalienable right to form and join the associations of their choice but subject to reasonable limitations. The Committee notes however that, while under the IRA, BIRA, KPIRA, PIRA and SIRA, workmen's trade unions can get recognition as collective bargaining agents, undertake collective bargaining, raise an industrial dispute, give a strike notice and have access to conciliation and voluntary arbitration proceedings, the same does not seem to apply to managerial workers' associations. ***The Committee therefore requests the Government to ensure that the federal and provincial acts are revised with a view to ensuring that senior managerial workers can establish and join organizations that can appropriately defend their occupational interests.***

The Committee further notes that section 2 of the IRA, BIRA, KPIRA, PIRA and SIRA define as an employer any person responsible for the management, supervision and control of the establishment, and that the same provisions define "worker" and "workman" as a person, employed in an establishment or industry for hire or reward, including employment as a supervisor or as an apprentice, but not falling within the definition of employer. The definition of worker also expressly excludes any person who is employed mainly in a managerial or administrative capacity. The Committee notes the Government's indication that the Government of Sindh intends to bring the issue of managerial workers before the Provincial Tripartite Consultative Committees (PTCC) for further clarification. The Committee recalls in this respect that it has always considered that where managerial staff are denied the right to join the same organizations as the other workers, the category of executive and managerial staff should not be so broadly defined as to weaken the organizations of other workers by depriving them of a substantial proportion of their actual or potential membership. Noting that according to section 2 of the abovementioned federal and provincial Industrial Relations Acts, persons employed mainly in an administrative capacity and all those responsible for the supervision and control of the establishment are not considered workmen, and that in departments of Federal Government, for the purpose of distinction from the category of "workers" or "workmen", officers and employees who belong to secretarial, supervisory or agency staff shall be deemed to fall within the category of employers, the Committee considers that the categories of staff disqualified from participation in workmen's trade unions may be too broadly defined. ***The Committee therefore requests the Government to review the application of the legislation with the social partners, with a view to ensuring, including through legislative means, that workers' organizations are not deprived of a substantial proportion of their actual or potential membership due to the current legal definitions of "workmen" and "employers". The Committee requests the Government to provide information on the measures taken in this regard.***

Rights of workers and employers to establish and join organizations of their own choosing. The Committee had previously referred to the need to amend sections 3(a) of the IRA, the SIRA and the BIRA, 3(i) of the KPIRA and 3(ii) of the PIRA according to which, no worker shall be entitled to be a member of more than one trade union, so as to ensure that workers in the public and private sectors who are engaged in more than one job are allowed to join the corresponding unions as full members, or at least, if they so wish, to join at the same time trade unions at the enterprise, branch and national levels. The Committee notes that the Government once again refers to the restriction on “double employment” of a worker under section 48 of the Factories Act, which means that a worker cannot be allowed to become a member of more than one trade union, and further adds that the proposed BIRA Bill 2017, also prohibits “double employment” and establishes that in order to become a trade union member, the worker should be employed at the establishment. The Government considers that membership in more than one trade union is not justified as in the same establishment it would result in overlapping memberships in more than one rival trade union. Furthermore, the Committee notes the Government’s indication that in accordance with the KPIRA, members and office-bearers of unions can also become office-bearers in federations and confederations, and that pursuant to portion of Form-C of the Khyber Pakhtunkhwa Industrial Relations Rules, 1974, while the same person cannot become a member of more than one union in the same establishment/group of establishments/industry to which the trade union relates, this is possible if the establishments are different.

The Committee observed in its previous comment that, while, as indicated by the Government, under section 48 of the Factories Act, adult workers shall not be allowed to work in any factory on any day on which they have already been working in any other factory, this does not seem to preclude that workers in the private and public sector or sectors may be engaged in more than one job in the same or different occupation. In addition, the Committee once again recalls that workers who are engaged in more than one job should be allowed to join the corresponding union of their choice, that is, more than one union, and that in any event workers should be able, if they so wish, to join trade unions at the national and branch level as well as the enterprise level at the same time, and draws the Government’s attention to the fact that compliance with this principle will not entail overlapping memberships. The Committee notes that pursuant to the Government’s indication, in Khyber Pakhtunkhwa the law and practice allow the workers such choice. ***The Committee therefore requests the Government to take the necessary measures to ensure that federal and provincial legislation is amended so as to guarantee that workers who are engaged in more than one job are allowed to join the corresponding union of their choice, that is, more than one union, and that in any event, workers can, if they so wish, join trade unions at the national and branch level as well as the enterprise level at the same time and to provide information on the measures taken in this regard.***

Rights and advantages of the most representative trade unions. The Committee previously noted that certain rights were granted (in particular, to represent workers in any proceedings and to check-off facilities) only to collective bargaining agents, that is to say, the most representative trade unions (sections 20(b) and (c), 22, 33, 35 and 65(1) of the IRA; sections 24(13)(b) and (c), 32, 41, 42 and 68(1) of the BIRA; sections 24(13)(b) and (c), 28, 37, 38 and 64(1) of the KPIRA; sections 24(20)(b) and (c), 27, 33, 34 and 60(1) of the PIRA and sections 24(20)(b) and (c), 27, 34, 35 and 61(1) of the SIRA. It notes with **interest** the Government’s indication that it will try to devise a mechanism in consultation with the stakeholders to solve the issues related to the provision of check-off and representation of workers in case of individual grievances. The Committee also notes that the Government considers that recognizing the right to declare strike and bargain collectively for unions other than the CBA may lead to multiplicity of fora and different charters of demands, resulting in different rights for different workers of the same establishment. It finally indicates that the Governments of Sindh and Blochistan will discuss the observations of the Committee in the PTCC for final decision. The Committee reiterates that the distinction between most representative and minority unions should be limited to the recognition of certain preferential rights (for example, for such purposes as collective bargaining, consultation by the authorities or the designation of delegates to international organizations); however, the distinction should not have the effect of depriving those trade unions that are not recognized as being among the most representative of the essential means of defending the occupational interests of their members (for instance, making representations on their behalf, including representing them in case of individual grievances), of organizing their administration and activities, and formulating their programmes (including giving notice of and declaring a strike), as provided for in the Convention. ***Welcoming the Government’s declared intention to address the lack of right of representation and check-off facilities for minority unions, the Committee urges the Government to take the necessary measures to amend the legislation as soon as possible, so as to ensure full respect for the abovementioned principles, and to take the necessary measures to ensure that the governments of the provinces likewise amend the legislation, and to inform it of the developments in this regard.***

In its previous comments, the Committee had requested the Government to amend section 27-B of the Banking Companies Ordinance of 1962, which restricted the possibility of becoming an officer of a bank union only to employees of the bank in question, under penalty of up to three years’ imprisonment. The Committee notes the Government’s indication that in a tripartite meeting held in August 2018 at the Ministry of Overseas Pakistanis and Human Resources Development, it was agreed that the Ministry will submit a proposal for amendment of section 27-B to the Government. The Committee however notes with **concern** that pursuant to the Government’s report, in the above-cited tripartite meeting it was decided to enable dismissed workers to work in unions for so long as their cases are not finalized in the court. The Committee considers, however, that if the Ministry’s amendment proposal does not go further than the decision adopted in the tripartite meeting, it will fall short of bringing the law into conformity with the Convention. In the view of

the Committee, provisions like section 27-B infringe the right of organizations to draw up their constitutions and to elect representatives in full freedom by preventing qualified persons (such as full-time union officers or pensioners) from being elected and by creating a real risk of interference by the employer through the dismissal of trade union officers, which deprives them of their trade union office. ***The Committee urges the Government to take the necessary measures to amend the legislation by making it more flexible, either by admitting as candidates persons who have previously been employed in the occupation concerned, or by exempting from the occupational requirement a reasonable proportion of the officers of an organization, along the lines of section 8(d) of the IRA.***

Article 3. Right to elect representatives freely. The Committee had previously noted that the IRA and the provincial industrial relations acts contain several sections concerning disqualification from being elected to or holding a trade union office on the following grounds: conviction or prison sentence for two years or more for offence involving moral turpitude under the Pakistan Penal Code, unless a period of five years has elapsed after the completion of the sentence (section 18 of IRA); conviction for contraventions to the Act (section 7 of the KPIRA); conviction for heinous offence under the Pakistan Penal Code (section 7 of the BIRA, KPIRA, PIRA and SIRA); violation of National Industrial Relations Commission (NIRC) or Labour Court order to stop a strike (section 44(10) of the IRA, section 64(7) of the BIRA, 60(7) of the KPIRA, 56(7) of the PIRA and 57(7) of the SIRA) and conviction for embezzlement or misappropriation of funds (sections 7 and 77 of the BIRA, 7 and 69 of the PIRA and 7 and 70 of the SIRA). The Committee notes the Government's indication that: (i) the grounds for disqualification on conviction to prison sentence as stipulated in the IRA are reasonable to protect discipline and good governance at the enterprise level and the offences of theft, embezzlement and moral turpitude seriously damage the relationship of trust and mutual respect between employers and workers and the ability to represent workers; (ii) section 56 of the PIRA highlights the powers of the appellate court to deal with cases of illegal strikes and to pass certain orders against the violators. These powers allow the creation of checks and balances for the promotion of healthy trade unionism; (iii) the grounds for disqualification under the PIRA only cover the crucial minimum requirements for a certain specified period. The Government further reiterates that the Government of Sindh plans to place the matter before its Provincial Tripartite Consultative Committee (PTCC) and indicates that the Government of Khyber Pakhtunkhwa will do likewise. It further indicates that the Government of Balochistan has proposed to omit reference to section 77 in section 7 of the BIRA and the procedure in case of illegal strikes or lockout will be finalized after consultation with social partners. The Committee once again emphasizes that legislation which establishes excessively broad ineligibility criteria such as by means of a long list, including acts which have no real connection with the qualities of integrity required for the exercise of trade union office, is incompatible with the Convention. In this regard, the Committee considers that not every contravention of industrial relations legislation, nor every violation of a judicial order to stop a strike, nor every conviction for the range of criminal offences alluded to necessarily constitute acts of such a nature as to be prejudicial to the performance of trade union duties. In light of the above, the Committee welcomes the initiatives of the Governments of Khyber Pakhtunkhwa and Sindh to refer the Committee's comments to the PTCC and expects that these consultations will produce concrete results in the near future. It notes however that neither the Federal Government nor the Government of Punjab seem to envisage any legislative amendment in relation to this matter and that the amendments proposed by the Government of Balochistan do not adequately limit the grounds for disqualification from being elected to or holding union office. ***The Committee therefore urges the Government to amend the federal legislation so as to make the grounds for disqualification more restrictive and to take the necessary measures to ensure that the governments of the provinces likewise amend their legislation.***

Right of workers' organizations to organize their administration and to formulate their programmes. The Committee had previously noted that sections 5(d) of the IRA, 15(e) of the BIRA and SIRA, and 15(d) of the KPIRA and PIRA confer on the registrar the power to inspect the accounts and records of a registered trade union, or investigate or hold such inquiry into the affairs of a trade union as he or she deems fit. It also notes that the Government reiterates that these legal provisions aim at making the system more accountable and transparent. With regard to provinces, the Government indicates that the purpose of inspection powers of the registrar under the PIRA is limited to unveiling of certain crucial facts and figures and that under the SIRA, the power to check the accounts aims at ensuring that expenditures have been made properly and, finally, that the Government of Khyber Pakhtunkhwa commits that the financial powers of the registrar under the KPIRA may be minimized to solving the issues of misappropriation and embezzlement. While noting the federal and provincial governments' views concerning the limited purposes of the registrar's powers, the Committee considers that the wording of the relevant legislative provisions "as he deems fit" is excessively broad. ***The Committee requests the Government to take the necessary measures to amend the legislation by explicitly limiting the powers of financial supervision of the registrar to the obligation of submitting annual financial reports and to verification in cases of serious grounds for believing that the actions of an organization are contrary to its rules or the law or in cases of a complaint or call for an investigation of allegations of embezzlement from a significant number of workers (see 2012 General Survey on the fundamental Conventions, paragraph 109). The Committee requests the Government to take the necessary steps to ensure that the governments of the provinces take such measures as well.***

Article 4. Dissolution of organizations. The Committee had previously noted that the registration of a trade union can be cancelled by the registrar for numerous reasons set out in sections 11(1)(a), (d), (e) and (f), 11(5), and 16(5) of the IRA; and section 12(1)(a) and (b), 12(3)(d), and 12(2) and (7) of the BIRA, the KPIRA and the PIRA, and that, under the IRA, the Commission's decision directing the registrar to cancel the registration of a union cannot be appealed in court

(section 59). The Committee had also noted that section 12 of the SIRA provides for grounds for cancellation by the registrar, if so directed by the labour court, and had recalled that the dissolution and suspension of trade union organizations constitute extreme forms of interference by the authorities in the activities of organizations and should, therefore, be accompanied by all the necessary guarantees, which can only be ensured through a normal judicial procedure, which should also have the effect of a stay of execution. The Committee had further noted the Government's indications that: (i) registration of a trade union is cancelled at federal level only on the order of the National Industrial Relations Commission (NIRC) (judicial body the decision of which can be appealed before its full bench (sections 54, 57 and 58 of the IRA)) or at provincial level by the labour courts; and (ii) the Registrar of Trade Unions, on its own, has no jurisdiction to cancel the trade union registration (sections 11(2) of the IRA; 12(2) of the BIRA, the KPIRA, the PIRA and the SIRA). The Committee had requested the Government to provide information on all occurrences of cancelled registration since January 2016 and the procedures followed for such occurrences. It notes in this regard the Government's indication that, in Punjab, 66 registrations were cancelled in 2016, and five appeals were made before the labour court against these cancellations, while in 2017, registrations of 73 unions were cancelled and nine appeals were made. The Government further indicates that in Khyber Pakhtunkhwa eight registrations were cancelled pursuant to section 12(3)(a) of the KPIRA that provides for the cancellation of registration of a union that has dissolved itself or has ceased to exist. ***Taking due note of this information, the Committee requests the Government to provide information on occurrences of cancelled registration in all provinces as well as at the federal level since January 2016, and the procedures followed for such cases, including the results of all appeals that were taken.***

Export processing zones (EPZs). With regard to the right to organize in EPZs, the Committee recalls that it had previously noted the Government's statement that the Export Processing Zones (Employment and Service Conditions) Rules, 2009, had been finalized in consultation with the stakeholders and would be submitted to the Cabinet for approval. The Committee notes the Government's indication in its report on the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), that the proposed rules were shared with the investors of the EPZ Authority (EPZA) as any change in the incentive package under which an investment/scheme has been sanctioned in a zone shall not be made except where such change is more advantageous to the investors and is also accepted by them. The Government adds that any change in the EPZA law would involve formal endorsement of the Board of the EPZA followed by the approval of the Parliament and the matter is still being discussed at a higher level in order to carve out a strategy to amend the law. Recalling that for the past 13 years, the Government has been indicating that it is in the process of drawing up rules that would grant the right to organize to EPZ workers, the Committee ***deeply regrets*** the lack of progress in this regard. ***Recalling that workers in the EPZs should benefit from the rights guaranteed under the Convention, the Committee urges the Government to take the necessary steps to ensure that the new Rules are adopted without further delay so as to guarantee the right to organize in EPZs. It requests the Government to provide a copy thereof once adopted.***

The Committee expects that all necessary measures will be taken to bring the national and provincial legislation into full conformity with the Convention and requests the Government to provide information on all steps taken or envisaged in this respect.

The Committee is raising other points in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2018 and the Government replies thereto. It also notes the Government's reply to the ITUC 2017 observations. Furthermore, the Committee ***regrets*** that the Government has not fully responded to the 2012 and 2015 ITUC allegations of anti-union dismissals and acts of interference in trade union internal affairs by employers (intimidation, and blacklisting of trade unions and their members). ***The Committee once again requests the Government to provide its comments on these observations.***

Legislative issues. The Committee recalls that, in its previous comments, it had noted: (i) that the Government had enacted the 18th Amendment to the Constitution, whereby the matters relating to industrial relations and trade unions were devolved to the provinces; (ii) the adoption of the Industrial Relations Act (IRA), 2012, which regulates industrial relations and registration of trade unions and federations of trade unions in the Islamabad Capital Territory and in the establishments covering more than one province (section 1(2) and (3) of the IRA), and the content of which did not address most of the Committee's previous comments; (iii) the adoption in 2010 of the Balochistan IRA (BIRA), the Khyber Pakhtunkhwa IRA (KPIRA), the Punjab IRA (PIRA), and the Sindh Industrial Relations (Revival and Amendment) Act, all of which raised similar issues as the IRA. The Committee had also noted the adoption in 2013 of the Sindh Industrial Relations Act, 2013 (SIRA), which replaced the former industrial relations legislation, and the amendment of the BIRA in 2015. It also noted the Government's statement that the responsibility for the coordination of labour-related issues and the responsibility to ensure that provincial labour laws are drafted in accordance with international ratified Conventions, lie with the federal Government.

Scope of application of the Convention. The Committee had previously noted that the IRA, BIRA, KPIRA, PIRA and SIRA excluded numerous categories of workers (enumerated by the Committee in its observation on the application

of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), from their scopes of application, and – as far as the BIRA is concerned – workers employed in tribal areas. It notes the Government's indication that: (i) the exclusions identified under the PIRA are meant for smooth sailing of the governance and to provide uninterrupted public services without causing any harm or hardship to the public; (ii) the Government of Khyber Pakhtunkhwa will forward the point for discussion and opinion to the Provincial Tripartite Consultation Committee (PTCC); (iii) the Government of Balochistan has proposed necessary amendments in the upcoming BIRA, 2017; furthermore, in its report under Convention No. 87 the Government states that an amendment proposal has been made that would allow workers employed in the Provincially Administered Tribal Areas to enjoy freedom of association rights; and (iv) the Government of Sindh has already taken steps to provide the right of association to agriculture and fisheries workers under SIRA 2013 and workmen employed in various government departments enjoy the right of association. The security staff, however, cannot be granted the right of association due to security reasons and public interest. Furthermore the Government of Sindh is going to submit a proposal to expand the coverage of SIRA in hospitals and educational institutions.

With regard to public servants in particular, the Committee had previously noted that the IRA does not apply to workers employed in the administration of the State other than those employed as workmen (section 1(3)(b)), and that the BIRA, KPIRA, and PIRA and section 1(3)(ii) of the SIRA add the words “as workman employed *by the Railway and Pakistan Post*”. The Committee had also observed that the wording in section 1(3)(b) of the BIRA, KPIRA, PIRA and SIRA “shall not apply to persons employed in the administration of the State other than those employed as workmen *by the Railway and Pakistan Post*” could imply that certain persons employed in public enterprises are deemed employed in the administration of the State and excluded from the scope of the laws, and had requested the Government to provide information in this regard. The Committee notes the Government's indication that: (i) the Committee's comments are noted for future progress and development of legislation and the respective Governments with the support of the social partners are doing the necessary to address the anomalies and ambiguities in the legislation; (ii) the employees of “Authorities”, “Autonomous bodies” and state corporations in ministries and provincial governments with certain exceptions are covered under industrial relations laws; (iii) the workers of the “State administration” and their attached departments where workers are covered under the definition of civil servants do not form unions under the industrial relations laws, but they can establish “associations”; for the last two decades these associations have been very active, the movement of Clerks Association and All Pakistan Lady Health Workers Welfare Associations being two prominent examples; (iv) persons employed in public enterprises are within the scope of the existing industrial relations laws as these laws are applicable to all establishments, either public enterprises/government institutions or private limited companies, except those which are excluded; the only test is the status of the person employed. If the person fulfils the requisites of being a workman under the definition of the law, they fall within the scope of the law; (v) in Khyber Pakhtunkhwa, the public servants employed in the administration of the State who temporarily join public entrepreneurs are excluded from the ambit of KPIRA as they fall within the scope of Civil Establishment Code/Civil Servant Act, 1973; and (vi) in Sindh, workmen employed in government departments like agriculture, irrigations, union councils and town committees, and the Karachi Development Authority, enjoy the right of association and have formed unions in their respective departments.

The Committee notes, in particular, the Government's indication that in all establishments including the public enterprises, only “workmen” are within the scope of the industrial relations laws. It further notes that pursuant to the “explanation” of section 2(ix)(d) and (e) of the IRA; section 2(i), (iv) and (v) of the BIRA, section 2(vii)(d) and (e) of the KPIRA and section 2(viii)(d) and (e) of the PIRA and SIRA, officers and employees of federal and provincial governments or local authorities who belong to the superior, managerial, secretarial, directorial, supervisory or agency staff who have been notified for this purpose in the official *Gazette*, shall be deemed to fall in the category of “employers” and in relation to any other establishment, the proprietor of such establishment and every director, manager, secretary, agent or officer or person concerned with the management of the affairs thereof is considered an employer. The Committee notes with **concern** that the industrial relations acts state that the rights provided in the Convention, including the right to represent the members for collective bargaining purposes are recognized only for workmen's trade unions (sections 19 and 20 of the IRA; section 24 of the BIRA, KPIRA, PIRA and SIRA) thus excluding secretarial, supervisory or agency staff in governments and every director, manager, secretary, agent or officer or person concerned with the management of any other establishment from the right to collective bargaining. The Committee notes in this respect the PWF's observation that by virtue of the narrow definition of worker and workman, and pursuant to sections 31(2) of the IRA and 17(2) of the BIRA, KPIRA, SIRA and PIRA, a workman on promotion has to leave the trade union and become deprived from the benefit of collective bargaining and collective agreement.

Taking due note of the information provided by the Government, the Committee again emphasizes that the only categories of workers which can be excluded from the application of the Convention are the armed forces, the police and public servants engaged in the administration of the State (*Article 6* of the Convention). In particular, the Committee recalls that the exceptions relating to the armed forces and the police do not automatically apply to all employees who may carry a weapon in the course of their duties or to civilian personnel in the armed forces, fire service personnel, and members of the security services of civil aviation companies, workers engaged in security printing services and members of the security or fire services of oil refineries, airports and seaports. The Committee also considers that by depriving all managerial, secretarial and agency employees in both public and private sectors, who are neither members of armed forces or the police, nor engaged in the administration of the State from the right to collective bargaining, the federal and

provincial industrial relations laws fail to respect the Convention in its full personal scope of application. ***Recalling its repeated requests in this respect, the Committee urges the Government to ensure that it, as well as the governments of the provinces, take the necessary measures in order to amend the legislation so as to ensure that all workers, with the only possible exception of the armed forces, the police and public servants engaged in the administration of the State, fully enjoy the rights enshrined in the Convention.***

Export processing zones (EPZs). The Committee recalls that it had previously noted the Government's statement that the Export Processing Zones (Employment and Service Conditions) Rules, 2009, had been finalized in consultation with the stakeholders and would be submitted to the Cabinet for approval. The Committee notes the Government's indication that the proposed rules were shared with the investors of the EPZ Authority (EPZA) as any change in the incentive package under which an investment/scheme has been sanctioned in a zone shall not be made except where such change is more advantageous to the investors and is also accepted by them. The Government adds that any change in the EPZA law would involve formal endorsement of the Board of the EPZA followed by the approval of Parliament and the matter is still being discussed at a higher level in order to carve out a strategy to amend the law. Recalling that for the past 13 years, the Government has indicated that it is in the process of drawing up rules that would grant the right to organize to EPZ workers, the Committee ***deeply regrets*** the lack of progress in this regard. ***Recalling that workers in the EPZs should benefit from the rights guaranteed under the Convention, and that the deprivation of workers from the right to organize should not be considered as an incentive for investors, the Committee urges the Government to take the necessary steps to ensure that the new Rules guarantee the right to organize, to accelerate the process of their drafting and approval and to provide detailed information on the progress made.***

Article 1 of the Convention. Protection against acts of anti-union discrimination. Banking sector. The Committee had previously requested the Government to amend section 27-B of the Banking Companies Ordinance of 1962, imposing sanctions of imprisonment and/or fines on the grounds of the exercise of trade union activities during office hours. The Committee notes the Government's indication that in a tripartite meeting held in August 2018 at the Ministry of Overseas Pakistanis and Human Resources Development, it was agreed that the Ministry will submit a proposal for amendment on section 27-B to the Government. The Government further indicates that at the end of this meeting it was decided to permit only those union activities during office hours that relate to redressal of grievances. Recalling that for the past 16 years it has been requesting the Government to repeal the penal sanctions provided for in section 27-B, the Committee notes with ***concern*** that the outcome of the tripartite meeting seems to fall short of its longstanding request. ***It therefore urges the Government to take all the necessary measures to repeal section 27-B so as to enable the workers in the banking sector to exercise trade union activities, with the consent of the employer, within working hours.***

Article 4. Collective bargaining. The Committee previously noted that, according to section 19(1) of the IRA, and sections 24(1) of the BIRA, KPIRA, PIRA and SIRA, if a trade union is the only one in the establishment or group of establishments (or industry, in the BIRA, KPIRA, PIRA and SIRA), but it does not have at least one third of the employees as its members, no collective bargaining is possible at the given establishment or industries. The Committee recalls that it had previously requested the Government to amend similar sections which existed under the former industrial relations legislation. The Committee notes the Government's indication that the purpose of the above-cited provisions is not to give a hard time to genuine unions and to restrict the only trade union to act as a Collective Bargaining Agent (CBA), but to restrict and discourage the fake and bogus unions. No ballot is held for a single union to prove one-third strength, it is up to the satisfaction of the Registrar and usually a simple procedure (signatures of members and workmen) is adopted. The Government further indicates that the removal of the requirement of one-third majority may give rise to the menace of pocket unionism through small unrepresented and planted collective bargaining agents, working for the interest of the management and against the workmen, and if small unions are given the right of collective bargaining, no union will vie to get a status of CBA. Taking due note of the information provided by the Government, the Committee recalls in this respect that the determination of the threshold of representativeness to designate an exclusive agent for the purpose of negotiating collective agreements which are destined to be applied to all workers in a sector or establishment is compatible with the Convention in so far as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice. The Committee therefore is not requesting the Government to remove the one-third majority requirement for the acquisition of the exclusive CBA status. However, the Committee considers that if no union in a specific negotiating unit meets the required threshold of representativeness to be able to negotiate on behalf of all workers, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members. ***The Committee urges the Government to take the necessary measures in order to ensure that if there is no union representing the required percentage to be designated as the collective bargaining agent, collective bargaining rights are granted to the existing unions, jointly or separately, at least on behalf of their own members. The Committee underlines the importance that the governments of the provinces take measures in the same direction.***

The Committee notes that sections 62(3) of the IRA, 25(3) of the KPIRA and PIRA, 25(2) of the SIRA and 30(3) of the BIRA, provide that, after the certification of a Collective Bargaining Unit (CBU), no trade union shall be registered in respect of that unit except for the whole of such a unit. It further notes that pursuant to section 62 of the IRA, 30 of the BIRA, respectively National and Provincial Industrial Relations Commission is competent for determination of collective

bargaining units; and that pursuant to section 25 of the KPIRA and the PIRA, the Labour Appellate Tribunal and pursuant to section 25 of the SIRA, the Registrar are competent in this regard. The decisions on determination of collective bargaining units are appealable before the full bench of the Commission pursuant to IRA and BIRA, before the Supreme Court pursuant to KPIRA and PIRA, and before the Labour Appellate Tribunal pursuant to SIRA. The Committee notes that these provisions can entail the loss of status of collective bargaining agent for previously certified unions as a result of a decision in which the parties play no role, and that one such case is mentioned in ITUC 2017 observations. The Committee recalls that it had noted similar provisions under the previous IRA according to which the NIRC could determine or modify a collective bargaining unit on an application made by a workers' organization or reference made by the federal Government, and had requested the Government to take the necessary measures to ensure that under the new industrial relations legislation, the choice of collective bargaining unit can be made by the social partners, since they are in the best position to decide the most appropriate bargaining level. The Committee *regrets* that the federal and provincial laws adopted subsequently reproduced the previous provision. ***The Committee requests the Government to ensure that the necessary measures are taken by the federal and provincial governments to amend the legislation, so that the social partners can play a part in the determination on modification of the collective bargaining unit is made by the social partners themselves and to inform on the progress made in this regard.***

The Committee had previously noted that: (i) shop stewards are either nominated (by a collective bargaining agent) or elected (in the absence of a collective bargaining agent) in every undertaking employing over 50 workers (25 workers, in the case of the IRA) to act as a link between the workers and the employer, to assist in the improvement of arrangements for the physical working conditions and to help workers in the settlement of their problems (sections 23 and 24 of the IRA, 33 of the BIRA, 29 of the KPIRA and 28 of the PIRA); (ii) works councils (bipartite bodies), which are established in every undertaking employing over 50 workers, have multiple functions (sections 25 and 26 of the IRA, 39 and 40 of the BIRA, 35 and 36 of the KPIRA, and 29 of the PIRA and SIRA), and its members are either nominated by a collective bargaining agent or, in the absence of a collective bargaining agent, elected (PIRA and SIRA) or "chosen in the prescribed manner from amongst the workmen engaged in the establishment" (IRA, BIRA and KPIRA); and (iii) management shall not take any decision relating to working conditions without the advice of workers' representatives, who can be nominated (by a collective bargaining agent) or be elected (in the absence of a collective bargaining agent) (section 27 of the IRA, 34 of the BIRA, 30 of the KPIRA and 29 of the PIRA and SIRA); and (iv) joint management boards shall look after the fixation of job and piece-rate, planned regrouping or transfer of workers, laying down the principles of remuneration and introduction of remuneration methods, etc. (sections 28 of the IRA, 35 of the BIRA, and 31 of the KPIRA). These functions are assigned to works councils under the PIRA and SIRA (section 29(5)). The Committee had requested the Government to ensure that it, as well as the governments of the provinces, take appropriate measures to guarantee that, in the absence of a collective bargaining agent, all workers' representatives sitting on the above entities are being elected, and that the existence of elected workers' representatives is not used to undermine the position of the trade unions concerned or their representatives. In this regard the Committee notes the Government's indication that: (i) in cases where there is no collective bargaining agent, the employer shall hold elections to elect the representatives of workmen for the works council by a notice and procedure laid down in Rules; and (ii) in a meeting arranged to discuss the recommendations of the Committee all stakeholders agreed that the alternate system for determination of workers' representatives in establishments where no labour union was available could be made more effective through reform. Therefore all representatives of Provincial Labour Departments were requested to discuss the issue in the meetings of their respective PTCCs. The Committee notes with *interest* the Government's indication that worker members of the work councils are elected and requests the Government to provide a copy of the Rules that provide the notice and procedure for their election. However, the Committee considers that, where there is no collective bargaining agent, the fact that the trade union can seek to persuade the workers during the elections to vote for its members to be represented in the above entities does not fully eliminate the risk of the union being undermined by workers' representatives. ***Noting that a possibility of reform is being considered within the PTCC's, the Committee requests the Government to ensure that it, as well as the governments of the provinces, guarantee that the existence of elected workers' representatives is not used to undermine the position of the trade unions concerned or their representatives. It also requests the Government to submit a copy of the Rules providing the notice and procedure for the election of the workers' representatives in the work councils.***

Compulsory conciliation. Having noted that compulsory conciliation is required by law in the collective bargaining process, the Committee had previously observed that the conciliator is appointed either directly by the Government (sections 43 of the BIRA, 39 of the KPIRA, 35 of the PIRA and 36 of the SIRA) or by the Commission whose ten members are appointed by the Government, with only one member representing employers and another one representing trade unions (section 53 of the IRA). It had underlined that the system of appointment of the conciliator, as well as the composition of the Commission, could raise questions concerning the confidence of the social partners in the system. The Committee notes the Government's indication that it agrees with the Committee's comment and the current procedure for appointment of conciliators is satisfactorily working. The Government further transmits the responses of the governments of Khyber Pakhtunkhwa, Punjab, Sindh and the National Industrial Relations Commission, all stating that the process is working well, that no complaint has been received from any party and that if there is any complaint of partiality, appropriate mechanisms are available to the aggrieved party. The Committee takes note of the information provided by the Government.

Concerning section 6 of the IRA, the Committee refers to its comments made under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in the direct request.

Collective bargaining in practice. **The Committee requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements, as well as on any additional measures undertaken to promote the full development and utilization of collective bargaining under the Convention.**

The Committee expects that all necessary measures will be taken to bring the national and provincial legislation into full conformity with the Convention and requests the Government to provide information on all steps taken or envisaged in this respect. The Committee notes that the ILO project financed by the Directorate-General for Trade of the European Commission to support GSP+ beneficiary countries to effectively implement international labour standards is being implemented in Pakistan and trusts that the project will assist the Government in addressing the issues raised in this observation.

Panama

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1958)

The Committee notes the observations of the National Confederation of United Independent Unions (CONUSI), received on 9 March 2017 and 31 August 2018 as well as the general reply of the Government thereon. The Committee also notes the observations of the International Transport Workers' Federation (ITF), received on 4 September and 21 November 2018, which mainly refer to matters addressed by the Committee in the present observation. The Committee notes that the observations of the CONUSI and the ITF refer to the effectiveness of procedures for dealing with disputes relating to the Panama Canal, a subject which was examined by the Committee on Freedom of Association in Case No. 3106, in which the Committee on Freedom of Association concluded its examination of the case and trusted that the Government would continue to follow up the matters raised by the trade unions concerned with a view to considering any relevant improvement. **The Committee requests the Government to provide its comments on this subject.**

The Committee notes with *interest* that both the CONUSI and the Government indicate that, in a ruling of 30 December 2015 which found unconstitutional various provisions of the Act on administrative careers (including the provision increasing from 40 to 50 the minimum number of workers required to establish an organization of public servants), the Supreme Court of Justice ruled that the Convention is part of the "constitutional block" of the country.

Tripartite committees. In its previous comments, the Committee noted the progress achieved by the committees which form part of the Panama tripartite agreement of 2012 and which benefit from ILO technical support: the Committee for the Rapid Handling of Complaints relating to Freedom of Association and Collective Bargaining and the Implementation Committee; the latter is seeking forms of consensus to bring the national legislation into harmony with the provisions of the Convention on the basis of the comments of the ILO supervisory bodies. The Committee notes with *interest* the role played by the Complaints Committee in relation to the granting of legal personality to the National Union of Education Workers (SINTE) and the contribution of the Implementation Committee in the preparation of draft legislation on freedom of association in the public sector with tripartite agreement. The Committee also notes that, in accordance with the Roadmap prepared in June 2018 by the moderator of the committees of the tripartite agreement, it is planned to establish a national tripartite consultative socio-labour body, with the possibility that the two current tripartite committees could be transformed into standing subcommittees of that body.

The Committee emphasizes the substantive role that the two committees can play in achieving the full application of the Convention, as they are not only contributing to the resolution of ad hoc disputes, but are also making it possible to develop tripartite agreement on substantive issues relating to freedom of association and collective bargaining. **The Committee encourages the Government, with the ongoing technical support of the Office, to continue strengthening the tripartite committees and invites the various authorities of the State to take duly into account their decisions. The Committee requests the Government to continue providing information on this subject.**

Legislative matters. The Committee recalls that for many years it has been commenting on the following matters which raise problems of conformity with the Convention:

Article 2 of the Convention. **Right of workers and employers without distinction whatsoever to establish and join organizations:**

- the requirement that there may not be more than one association in a public institution, and that associations may have provincial or regional chapters, but not more than one chapter per province, under the terms, respectively, of sections 179 and 182 of the Single Text of Act No. 9, as amended by Act No. 43 of 31 July 2009;
- the requirement of too large a membership (ten) for the establishment of an employers' organization and an even larger membership (40) for the establishment of a workers' organization at the enterprise level, under the terms of section 41 of Act No. 44 of 1995 (amending section 344 of the Labour Code), and the requirement of a high number of public servants (40) to establish an organization of public servants under section 182 of the Single Text of Act

No. 9 (which, as indicated by the Government, has been declared unconstitutional by the Supreme Court, in a ruling of 30 December 2015); and

- the denial to public servants (non-career public servants, as well as those holding appointments governed by the Constitution and those who are elected and serving) of the right to establish unions.

Article 3. Right of organizations to elect their representatives in full freedom:

- the requirement to be of Panamanian nationality in accordance with the Constitution in order to serve on the executive board of a trade union.

Right of organizations to organize their activities and to formulate their programmes in full freedom:

- legislation interfering with the activities of employers' and workers' organizations (sections 452(2), 493(4) and 494 of the Labour Code) (closure of the enterprise in the event of a strike and prohibition of entry to non-striking workers); the obligation for non-members to pay a solidarity contribution in recognition of the benefits derived from collective bargaining (section 405 of the Labour Code); and the automatic intervention of the police in the event of a strike (section 493(1) of the Labour Code); and
- the prohibition on federations and confederations from calling strikes, the prohibition on strikes against the Government's economic and social policies, and the unlawfulness of strikes that are not related to an enterprise collective agreement; the authority of the Regional or General Labour Directorate to refer labour disputes to compulsory arbitration in private transport enterprises (sections 452 and 486 of the Labour Code); and the obligation to provide minimum services with 50 per cent of the staff in the transport sector, as well as the penalty of summary dismissal of public servants for failure to comply with minimum services in the event of a strike (sections 155 and 192 of the Single Text of 29 August 2008, as amended by Act No. 43 of 31 July 2009).

With reference to the provisions referred to above respecting the public sector, the Committee notes that, according to the Government, the Bill on collective labour relations in the public sector is receiving its first reading by the National Assembly and it is the outcome of tripartite agreement in the Implementation Committee. The Committee notes that, both the Government and the CONUSI emphasize that the Bill represents historical progress on claims for the recognition of the right to freedom of association and that up to now there has been no positive explicit recognition in law of the right to freedom of association of public sector workers. The Committee notes that, in accordance with section 1 of the Bill, its purpose is to guarantee the recognition and full compliance with the rights of freedom of association, strike and collective bargaining, as well as an appropriate and effective system of dispute resolution. The Committee notes with *interest* that, according to the Government's indication and the text attached by the Government, the Bill: (i) does not establish limits on the existence of one or more trade unions per institution; (ii) provides that all public servants shall be able to establish trade union organizations, without the requirement for previous authorization, and to join them, irrespective of their position, occupation or sector, with the exception of those public servants principally exercising authority or jurisdiction on behalf of the State; and (iii) guarantees of the right of trade union organizations of public servants to conclude collective agreements, and to exercise the right to strike. While noting that, in accordance with section 9 of the Bill, it maintains the requirement of a high number of members to establish an organization of public servants (40), the Committee notes with *interest* the progress achieved by the Implementation Committee in the preparation of the Bill based on agreement, which is a very important step in bringing the legislation applicable to the public sector into conformity with the Convention. ***Taking due note that the Bill on the regulation of collective labour relations in the public sector is under examination by the National Assembly, the Committee expresses the firm hope that it will be adopted in the near future. The Committee requests the Government to provide information on this subject.***

With reference to the pending legislative issues relating to the private sector, the Committee notes the Government's indication that the Roadmap prepared in June 2018 by the moderator of the committees of the tripartite agreement indicates that, firstly, the legislation respecting the public sector and, secondly, labour legislation governing the private sector will be brought into conformity with the criteria of the supervisory bodies in relation to freedom of association and collective bargaining. ***The Committee hopes that the Implementation Committee will address in the very near future the other pending legislative issues, including those relating to the Labour Code, with a view to bringing it into full conformity with the Convention. It also requests the Government to provide information on this subject.***

Application of the Convention in practice. Granting of legal personality by the administrative authority. In its previous comments, and in relation to the observations of various trade unions, including the CONUSI, that the administrative authority refused to grant legal personality, the Committee noted with interest that, according to the Government's indications, as from 2014 the granting of legal personality to trade unions had been normalized. In this regard, the Committee notes that the Government emphasizes that: (i) in comparison with the nine legal personalities granted between June 2009 and June 2014, during the period between June 2014 and June 2018 a total of 46 legal personalities were granted; and (ii) giving effect to a ruling of the Supreme Court of Justice of 27 November 2014, the Ministry of Labour and Employment Development granted legal personality to the SINTE on 15 April 2016. However, the Committee notes the indication by the CONUSI that: (i) the statistics provided by the Government do not indicate how many of the 46 legal personalities granted were to unions in the public or private sectors; (ii) nor does the Government indicate in how many cases legal personality was denied to unions in the public sector, how many are awaiting decision

and how many applications there were; and (iii) up to now, legal personality has been granted to five unions in the public sector, and the approval of legal personality for nine unions in the public sector is still pending, despite the fact that the applications were made over six months ago. ***While taking due note of the general increase in the number of legal personalities granted, the Committee requests the Government to reply to the observations of the CONUSI and to ensure that the normalization of the process of granting legal personality fully applies to public sector as well as private sector organizations.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

The Committee notes the observations of the National Confederation of United Independent Unions (CONUSI), received on 31 August 2018 and of the International Transport Workers' Federation (ITF), received on 4 September and 21 November 2018, which refer to matters addressed by the Committee in the present observation and cases before the Committee on Freedom of Association. The Committee additionally notes that the observations of the CONUSI also refer to denunciations of violations of the Convention in practice, particularly in relation to the implementation of a policy which would hinder, delay and restrict the submission of lists of claims. ***While noting the Government's general answers to the observations of CONUSI, the Committee requests it to provide its detailed comments to the mentioned allegations.***

Tripartite committees. In its previous comments, the Committee noted the progress made by the committees which form part of the Panama tripartite agreement of 2012, and which benefit from the technical assistance of the ILO: the Implementation Committee (which is seeking to bring the national legislation into conformity with the provisions of the Convention) and the Committee for the Rapid Handling of Complaints relating to Freedom of Association and Collective Bargaining (the Complaints Committee). The Committee notes with ***interest*** that: (i) according to the Government's indication, since 2016 and up to now, the Complaints Committee has reached a series of agreements resolving issues covered by cases before the Committee on Freedom of Association, in which agreement was reached to close various cases; (ii) the Implementation Committee contributed decisively to the development of draft legislation on freedom of association in the public sector, on which tripartite agreement was reached. The Committee also welcomes the initiatives and actions agreed to in the Roadmap approved in June 2018, which include the provision of training for bipartite dialogue bodies in all public institutions and the establishment of a national socio-labour tripartite consultative body, with the possibility that the current two tripartite committees may be transformed into standing subcommittees of that body. The Committee emphasizes the important role that the two committees can play in achieving the full application of the Convention, not only through contributing to the resolution of specific disputes, but also by helping to develop tripartite agreements on substantive issues relating to freedom of association and collective bargaining. ***The Committee encourages the Government, with the continued technical support of the Office, to continue strengthening the tripartite committees and invites the various state authorities to take duly into account their decisions. The Committee requests the Government to continue providing information on this subject.***

Article 1 of the Convention. Adequate protection against anti-union discrimination. In its previous comments, the Committee noted that, although in Agreement No. 4 of 23 March 2015, the Complaints Committee recommended the reinstatement of all trade union leaders in the public sector who had been dismissed in violation of freedom of association, some leaders had not been reinstated into their former positions. The Committee notes the Government's indication that, although the Complaints Committee has requested information from the various institutions concerning the reinstatement of the trade union leaders, certain institutions have not responded to the request for information. In this regard, the Committee notes that, in its observations, the CONUSI indicates that the University of Panama and the Columbus Regional Centre have not replied to the notes sent by the Complaints Committee, thereby ignoring the call for the reinstatement of six trade union leaders who were dismissed by reason of their trade union activities. The Committee notes that, according to the information provided by the Government, in the Roadmap approved in June 2018, the Complaints Committee decided to give priority to the dismissals which had not yet been resolved in the Social Security Fund and the Ministry of Education. ***The Committee requests the Government to take the necessary measures to ensure that all the trade union leaders referred to in Agreement No. 4 of the Complaints Committee are reinstated in their jobs as soon as possible and that the reinstatement is in accordance with the terms of the Agreement. The Committee requests the Government to provide information on this subject.***

Articles 4 and 6. Right to collective bargaining. Pending legislative issues. In its previous comments, the Committee trusted that the Implementation Committee would continue to make its best efforts to seek compromise solutions allowing for the harmonization of the national legislation with the Convention, and addressing as soon as possible the following pending legislative issues:

- the need to amend section 514 of the Labour Code so that the payment of wages for strike days attributable to the employer is not automatically imposed by law, but is a matter for collective bargaining between the parties concerned;
- the need to amend section 427 of the Labour Code, which requires that the number of representatives of the parties in negotiation shall be between two and five;

- the need to regulate mechanisms for the settlement of legal disputes, and the possibility for employers to submit lists of demands and initiate a conciliation procedure; and
- the need to guarantee the right to collective bargaining for public employees and public servants who are not engaged in the administration of the State.

With reference to the provisions referred to above in respect of the public sector, the Committee notes that, according to the information provided by the Government, the Bill on collective labour relations in the public sector is being examined in first reading by the National Assembly and that it is the outcome of tripartite agreement in the Implementation Committee. The Committee notes that both the Government and the CONUSI emphasize that the Bill constitutes historical progress in relation to the right to freedom of association since, up to now, there had been no explicit positive recognition in law of the rights to freedom of association and collective bargaining for workers in the public sector. The Committee notes that, in accordance with section 1, the Bill has the objective of ensuring recognition and full compliance with the rights of organization, strike and collective bargaining, and an appropriate and effective system of dispute resolution. The Committee notes with *interest* that, according to the Government's indications, and the text appended by the Government, the Bill guarantees the rights of trade unions of public servants to conclude collective agreements, and the exercise of the right to strike. The Committee also notes that, in its observations, the CONUSI indicates that, although the Bill has not yet been adopted, the Trade Union of Workers of the University of Panama and the Administration of the University of Panama have agreed to negotiate a first collective agreement, which would be the first agreement signed in the public sector. The Committee notes with *interest* the progress achieved by the Implementation Committee in the development through agreement of the Bill, which constitutes a very important step in bringing the legislation applicable to the public sector into conformity with the Convention. ***Taking due note that the Bill on collective labour relations in the public sector is under examination by the National Assembly, the Committee firmly hopes that it will be adopted in the near future. The Committee requests the Government to provide information on this subject.***

With reference to the pending legislative issues relating to the private sector, the Committee notes the Government's indication that the Roadmap prepared in June 2018 by the moderator of the committees of the tripartite agreement agreed, firstly, that the legislation respecting the public sector, and secondly, the labour legislation governing the private sector would be brought into harmony with the criteria of the supervisory bodies in relation to freedom of association and collective bargaining. ***The Committee hopes that the Implementation Committee will deal in the very near future with the other pending legislative issues, including those relating to the Labour Code, so as to bring it into full conformity with the Convention. It also requests the Government to provide information on this subject.***

Other matters. Collective bargaining in the maritime sector. In its previous comments, the Committee noted that a Legislative Decree, which had in practice given rise to the refusal of workers' claims by employers in the maritime sector, had been declared unconstitutional, and it requested the Government to provide information on the number of collective agreements concluded in that sector. In this regard, the Government indicates that, although in September 2017, the administration of the Panama Canal Authority completed the renewal of the collective agreements with six negotiating units which cover the labour force of the Panama Canal, it is still awaiting more detailed information concerning the maritime sector. The Committee also notes the information provided by the Government in its report that between June 2014 and June 2018 a total of 319 collective agreements were concluded at the national level, covering 141,945 workers. ***The Committee requests the Government to provide full statistical data on the number of collective agreements concluded in the country, with an indication of the sectors of activity and number of workers covered, as well as the number of collective agreements concluded in the maritime sector.***

Papua New Guinea

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1976)***

Legislative matters. In its previous comments, the Committee had noted the Government's indication that the new Industrial Relations Bill (IRB 2014) was undergoing a vetting process at the Government Executive Committee and the Central Agency and Consultative Council to harmonize it with other relevant legislation and that the revised Bill should be presented to Cabinet before November 2016 or early 2017 and consultations on the matter should be held in the national Tripartite Consultative Council. ***Noting that the last information sent by the Government through an anticipated report dates back to 5 January 2017 and that its 2018 report was not received, the Committee hopes that the Government will provide in its next report information on the outcome of these consultations and whether the IRB 2014 has been enacted.***

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee had previously requested the Government to provide information on the measures taken to ensure effective implementation of the prohibition of anti-union discrimination in practice and to provide statistics on the number of anti-union discrimination complaints brought before the competent authorities, their follow-up, sanctions and remedies imposed. ***Noting that the Government did not provide specific information in this regard, the Committee reiterates its previous request.***

Article 4. Promotion of collective bargaining. Power of the Minister to assess collective agreements on the grounds of public interest. The Committee had previously requested the Government to take the necessary measures to bring section 50 of the Industrial Relations Bill (2011) into conformity with the principle that the approval of a collective agreement may only be refused if it has a procedural flaw or does not conform to the minimum standards laid down by general labour legislation. While observing once again that the Government does not provide a copy of the Bill, the Committee takes note of the Government's indication that section 50 of the IRB 2014 has been amended and that under the revised version the Attorney General is not entitled to appeal against the making of an award on the grounds of public interest.

Compulsory arbitration in cases where conciliation between the parties has failed. While recalling that it had noted the conformity of section 78 of the IRB 2014, as described by the Government, with the Convention, the Committee notes that the Government has still not clarified the content of section 79 of the IRB 2014.

The Committee trusts once again that the Government, taking into account the Committee's comments, will ensure the full conformity of any revised legislation with the Convention. In this regard, the Committee encourages the Government to avail itself of the technical assistance of the Office, if it so wishes and requests it to provide detailed information on the process of revision of the Industrial Relations Bill.

Paraguay

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1962)

The Committee notes the observations of the Central Confederation of Workers–Authentic (CUT–A) dated 27 May 2016 and 26 July 2018, the content of which is examined by the Committee in this comment. The Committee also observes that the Government has not responded to the 2010 observations of the International Trade Union Confederation (ITUC), which referred to the arrest of trade union members, or the ITUC observations received on 1 September 2015, which referred to anti-union dismissals and transfers and the Government's refusal to register some trade union organizations. *The Committee once again requests the Government to send detailed information with respect to the abovementioned observations.*

Articles 2 and 3 of the Convention. Pending legislative issues. In its previous comments, the Committee recalled that for many years it has been highlighting the inconsistency of certain legislative provisions with the Convention and requested the Government to take the necessary measures to amend the legislation with respect to the following issues:

- the requirement of an unduly large number of workers (300) to establish a branch trade union (section 292 of the Labour Code);
- the prohibition on joining more than one union even if the worker has more than one part-time employment contract, whether at the level of the enterprise or industry, occupation or trade, or institution (section 293(c) of the Labour Code);
- the imposition of unduly demanding conditions of eligibility for office on the executive committee of a trade union, namely the requirement to be an employee in the enterprise, industry, occupation or institution, whether active or on leave (section 298(a) of the Labour Code), to have reached the age of majority and to be an active member of the union (section 293(d) of the Labour Code);
- the requirement for trade unions to respond to all requests from the labour authorities for consultations or reports (sections 290(f) and 304(c) of the Labour Code);
- the requirement that, for a strike to be called, its sole purpose must be directly and exclusively linked to the workers' occupational interests (sections 358 and 376(a) of the Labour Code); and
- the obligation to provide a minimum service in the event of a strike in public services that are essential to the community without any requirement to consult the employers' and workers' organizations concerned (section 362 of the Labour Code).

Observing that the Government does not report specific progress on the steps taken to align the Labour Code with the Convention, the Committee requests that the necessary measures be taken in the near future to amend these provisions.

Compulsory arbitration. In its previous comments, the Committee also requested the Government, with respect to the referral of collective disputes to compulsory arbitration, to take steps to amend or repeal sections 284–320 of the Code of Labour Procedure in order to avoid all possible ambiguity, despite the fact that article 97 of the Constitution of the Republic of Paraguay tacitly repealed those provisions by establishing that arbitration shall be optional. *In the absence of new information in this regard, the Committee once again requests the Government, in the light of the provisions of the Constitution of Paraguay and in order to avoid all possible ambiguity in interpretation, to take the necessary measures to amend or repeal expressly sections 284–320 on compulsory arbitration.*

The Committee also observes that the Committee on Freedom of Association, in Case No. 3019 (see the 381st Report of the Committee on Freedom of Association, March 2017, paragraph 535), drew the Government's attention to section 292 of the Labour Code, which subjects the establishment of trade unions in public sector institutions to the affiliation of set percentages of workers that vary according to the size of the institution (20 per cent of workers in institutions of up to 500 employees; 10 per cent for institutions that employ up to 1,000 workers; and 5 per cent in those that employ more than 1,000). The Committee recalls that, although the legal requirement to have a minimum number of members is not in itself incompatible with the Convention, the number should be fixed in a reasonable manner so that the establishment of organizations is not hindered (see the 2012 General Survey on the fundamental Conventions, paragraph 89). ***Observing that the application of the percentages established in section 292 of the Labour Code could result in a requirement of up to 100 workers to establish a trade union in institutions of up to 500 employees and a requirement of an even higher number of members for public institutions with a large number of workers, and recalling that mechanisms are in place to avoid trade union fragmentation and safeguard workers' right to establish organizations of their choosing, the Committee requests the Government to hold consultations with the relevant social partners with a view to ensuring that section 292 of the Labour Code does not, in effect, undermine the right of workers in the public sector to establish organizations of their choosing. The Committee requests the Government to provide information in this respect.***

The Committee also notes that the Committee on Freedom of Association, in Case No. 3101 (386th Report, June 2017, paragraphs 57 and 58), concluded that section 38 of the Teachers' Statute, by establishing that teachers must have been registered for five years in order to obtain trade union leave, raises problems of conformity with the principles of freedom of association and referred this legislative aspect of the case to the Committee. The Committee recalls that provisions requiring candidates for trade union leadership to have a certain length of service in an enterprise before the elections infringe the right of organizations to draw up their constitutions and to elect representatives in full freedom (2012 General Survey, paragraph 102). ***The Committee requests the Government, in consultation with the social partners concerned, to adopt the necessary measures to amend section 28 of the Teachers' Statute in order to bring this provision into line with Article 3 of the Convention.***

With regard to revising the legislation to bring it into line with the Convention, the Committee notes the Government's indication that it has requested ILO technical assistance and that Ministry of Labour, Employment and Social Security (MTESS) memorandum No. 449/17 of 30 May 2017 initiated the process to recruit an expert responsible for formulating a draft bill to bring the Labour Code into line with ratified Conventions relating to freedom of association and with the Committee's comments. ***In light of the above, the Committee requests the Government to provide a copy of the draft bill as soon as the final version is available and once again trusts that, in the near future and in consultation with the social partners, the necessary measures will be taken to ensure that national law and practice comply fully with the requirements of the Convention indicated in this observation.***

The Committee firmly expects that, with ILO technical assistance, clear progress will be observed in the near future at the legislative level with regard to all of the abovementioned issues and requests the Government to report on any developments in this respect.

Registration in practice of trade unions and their executive committees. The Committee notes the allegations of the CUT-A that the labour administrative authority engaged in anti-union activity by not registering or recognizing the vacant posts on the executive committee of the ESSAP-SITUE United Workers' Union. ***The Committee notes in this regard the Government's indication that 77 executive committees were registered and recognized from 16 August to 23 October 2018, and requests the Government to indicate whether the ESSAP-SITUE United Workers' Union executive committee was among those recently registered.***

The Committee also notes the Government's assertion that it has adopted several ministerial decisions with a view to modernizing the automatic registration system and improving and streamlining the procedures for establishing trade unions. In this respect, the Committee notes the Government's indication that: (i) MTESS Decision No. 740 of 10 November 2016 established new requirements for the provisional registration of trade unions, federations and confederations in the public and private sectors; (ii) since the adoption of this Decision, the Government has made model constituent documents available to users of the institution's website; (iii) MTESS Decision No. 792 of 2 December 2016 adopted an online procedure for updating information on trade union organizations; (iv) MTESS Decision No. 856/16 implemented online applications for the provisional registration of trade union organizations; and (v) since the adoption of these decisions, there has been an increase in the number of trade union organizations registered via the MTESS website. The Committee also notes that, according to statistical data provided by the Government, from 2013 to June 2018, a total of 110 trade unions were provisionally registered and 102 registrations were confirmed. Lastly, the Committee notes the Government's indication that: (i) the first meeting of the social dialogue round table was held on 6 September 2018, with high levels of participation from the country's trade union federations, and various issues were discussed, including the recognition of trade unions; and (ii) 16 new trade unions were registered from 16 August to 23 October 2018. ***The Committee takes due note of the measures adopted by the Government and requests it to continue sending any new information in this respect.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)

The Committee notes the observations of the Central Confederation of Workers Authentic (CUT-A), dated 27 May 2016 and 26 July 2018, indicating that members of the ESSAP-SITUE United Workers' Union have been subject to discrimination and anti-union dismissals. ***The Committee requests the Government to send its observations on these allegations.***

Articles 1–3 of the Convention. Pending legislative matters. The Committee recalls that, since the adoption of Act No. 213 of 1993 establishing the Labour Code, it has been highlighting the lack of conformity with the Convention of some provisions of the Code and asking the Government to take the necessary measures to amend the legislation with respect to the following issues:

- the absence of legal provisions affording protection to workers who are not trade union leaders against all acts of anti-union discrimination (article 88 of the Constitution only affords protection against discrimination based on trade union preferences);
- the absence of adequate penalties for non-observance of the provisions relating to the employment stability of trade union officers and mutual interference between workers' and employers' organizations (the Committee previously indicated that the penalties laid down in the Labour Code for non-compliance with the legal provisions on this matter in sections 385, 393 and 395 do not constitute an adequate deterrent, except for repeated offences by the employer, in which case the fine is doubled); in this respect, the Committee recalls, with regard to protection against acts of anti-union discrimination, that the Committee on Freedom of Association also requested the Government, in consultation with the social partners, to ensure effective national procedures for the prevention or sanctioning of anti-union discrimination (see 381st Report, Case No. 3019, paragraph 548; 365th Report, Case No. 2648, paragraph 1132); and
- the delays in the application of justice in relation to acts of anti-union discrimination and interference.

In this respect, the Committee notes the Government's reply indicating that it has requested ILO technical assistance with a view to bringing the Labour Code and the Code of Criminal Procedure into line with ratified Conventions. The Committee also notes that Ministry of Labour, Employment and Social Security (MTESS) memorandum No. 449/17 of 30 May 2017 initiated the process to recruit an expert responsible for formulating a draft bill to bring the Labour Code into line with ratified Conventions relating to freedom of association and with the Committee's comments. ***The Committee requests the Government to send a copy of the draft bill as soon as the final version is available. Recalling that it has been requesting the abovementioned legislative reforms since 1994, the Committee once again trusts that measures will be taken in the near future to ensure the full conformity of national law and practice with the requirements of Articles 1–3 of the Convention.***

Articles 1 and 6. Protection of public officials not engaged in the administration of the State from anti-union discrimination. In its previous comments, the Committee requested the Government to take the necessary measures to guarantee adequate legislative protection against acts of anti-union discrimination for public officials and public employees covered by the Convention. The Committee notes the Government's indications that: (i) the right to trade union immunity, protection against anti-union acts and the right to compensation in the event of unjustified dismissal of workers in the public or private sector are expressly provided for in articles 88, 94 and 102 of the Constitution; (ii) under Act No. 1626/00, a public official protected by trade union employment stability may only be dismissed following an administrative inquiry (section 63); and (iii) the Secretariat of the Civil Service (SFP) adopted SFP Decision No. 415/16 of 30 May 2016, adopting the action protocol and assistance guidelines for cases of labour discrimination and harassment in the public service. The Committee observes that this Decision: (i) despite containing a wide-ranging and non-exhaustive list of grounds of discrimination, does not expressly mention trade union membership or activity; and (ii) provides that any complaint related to cases of discrimination or harassment at work can be made to the SFP Transparency and Anti-Corruption Directorate, which, however, does not have the power to impose penalties. ***While requesting the Government to supply information regarding the complaints of acts of anti-union discrimination made to the Transparency and Anti-Corruption Directorate under the abovementioned protocol, the Committee observes that the legislation applicable to public sector workers still does not contain provisions that expressly prohibit the acts of anti-union discrimination covered by the Convention and provide effective protection in that regard. Recalling that it has been calling for the abovementioned reforms since 2004, the Committee once again requests the Government to take the necessary measures, in consultation with the social partners, to adopt legislative provisions that expressly prohibit anti-union discrimination in the public sector and establish mechanisms that guarantee all public sector workers covered by the Convention effective protection against acts of anti-union discrimination, including rapid and impartial proceedings and remedies, and penalties constituting an adequate deterrent. The Committee requests the Government to provide information in this respect.***

Article 4. Promotion of collective bargaining in practice. In its previous comments, the Committee requested the Government to take measures to encourage and promote collective bargaining. The Committee notes the Government's indications that: (i) on 18 April 2018, Presidential Decree No. 5159/16 established the powers of the Tripartite Advisory

Council, which include the right to issue recommendations on draft bills regulating socio-economic and labour issues to draw up or commission reports and studies on different subjects including freedom of association; (ii) the social dialogue round table met for the first time on 6 September 2018, with high levels of participation from the trade union federations in the country, and discussed various subjects, including freedom of association and social dialogue; and (iii) on 16 August and 23 October 2018, two collective agreements were registered on conditions of work in the public and private sectors. ***The Committee welcomes the first meeting of the social dialogue round table and once again invites the Government to take measures to encourage and promote collective bargaining, including through the round table. The Committee also requests the Government to report on the number of collective agreements concluded and in force in the country, and to indicate the number of workers and the sectors covered by those agreements.***

Peru

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the observations of the Autonomous Workers' Confederation of Peru (CATP), received by the Office on 2 September 2018, on the application of the Convention in law and in practice, including limits on the granting of trade union leave in the education sector. ***The Committee requests the Government to provide its comments in this respect.***

The Committee previously requested the Government to provide its comments on the alleged violations in the specific enterprises and public institutions referred to in the observations of the International Trade Union Confederation (ITUC) in 2017. ***The Committee once again requests the Government to provide its comments in this regard.***

Article 2 of the Convention. Right of all workers, without distinction whatsoever, to establish and join organizations. In its previous comments, the Committee requested the Government to take the necessary measures to revise the content of Act No. 28518 and its regulations, and the General Education Act, in order to ensure the explicit recognition of freedom of association in training schemes. In this regard, the Committee notes the observations of the CATP denouncing the misuse of training schemes by employers, which have reportedly become a means of concealing the existence of labour relations and of paying less than the minimum wage. The Committee further notes, with regard to Act No. 28518, that the Government indicates that: (i) despite the fact that training schemes include a work component, they do not serve to produce goods or services, but rather to develop the skills and capacities of the beneficiaries, in order to increase their employability and labour productivity, and that such beneficiaries therefore cannot be considered as workers and are excluded from the protection afforded by *Article 2* of the Convention; (ii) work is currently under way to adopt the Act on specific public sector pre-vocational and vocational practices, and the content of Act No. 28518 is being revised with a view to potentially amending it and incorporating the comments of this Committee; (iii) while Act No. 28518 excludes training schemes from the labour regulations in force, the right to organize under such schemes is generally recognized by the Peruvian legal framework, in so far as the Peruvian Constitution broadly recognizes the rights to organize and bargain collectively, and the right to strike, and confers constitutional status on ratified international agreements; (iv) the Administrative Labour Authority interprets and recognizes the right to freedom of association in a broad manner and without the requirement for a work relationship with the employer; in this regard, the database of the Trade Union Register indicates the existence of autonomous and independent workers; and (vi) in practice, the Administrative Labour Authority has not denied any registration applications from trade union organizations comprising persons under training schemes. ***While duly noting the extent of the recognition of freedom of association by the Constitution, the Committee trusts that the future adoption of the Act on specific public sector pre-vocational and vocational practices and the revision of the Act on Labour Training Schemes will allow, without delay, for the explicit recognition of the freedom of association of workers under training schemes. The Committee requests the Government to provide information on any developments in this respect.***

In relation to the restrictions to the scope of freedom of association contained in article 153 of the Peruvian Constitution, which prevents judges and prosecutors from participating in politics, establishing or joining a trade union, and going on strike, the Committee notes the Government's reply, according to which, judges and prosecutors from various jurisdictional bodies enjoy this right in practice, and that there are currently at least three organizations of judges and prosecutors, namely the Association of Judges for Justice and Democracy, the Peruvian National Association of Magistrates and the Peruvian Association of Women Judges. With regard to the restrictions contained in article 42 of the Constitution, which does not recognize the right to organize of public servants having decision-making powers or holding positions of trust or leadership, the Committee notes the observations of the CATP, which indicate the Government's lack of political will to make the relevant legislative changes. The Committee further notes the Government's indication that the regulations preventing public servants who have decision-making powers or hold positions of trust or leadership from establishing or joining trade unions is constitutional, in so far as any regulations of a lower status must conform to constitutional standards, and section 40 of the Civil Service Act (LSC) confines itself to reiterating the constitutional exception. The Committee recalls that, pursuant to *Article 9(1)* of the Convention, the only authorized exceptions from the scope of application of the Convention concern members of the police and the armed forces, and that these exceptions must be construed in a restrictive manner. The Committee also recalls that *Article 2* of the Convention guarantees the

basic right to establish and join organizations of their own choosing to all workers “without distinction whatsoever”, including all public servants, whatever the nature of their functions, the only limitations permitted by the Convention being members of the armed forces and the police. However, the Committee has stated that senior public officials may be barred from joining trade unions provided they are entitled to establish their own organizations to defend their interests (see General Survey on collective bargaining in the public service, 2013, paragraphs 43 et seq., and General Survey on the fundamental Conventions, 2012, paragraph 66). ***The Committee once again requests the Government to take the necessary steps to revise the relevant provisions in its legal framework in order to secure the right to organize, in law and in practice, of judges and prosecutors, and of employees in positions of trust or leadership in the public administration. The Committee requests the Government to provide information on any developments in this regard.***

Article 3. Right of organizations to organize their activities and formulate their programmes. Holding a strike vote. In its previous comments, the Committee requested the Government to indicate whether the revised section 62 of the Regulations of Consolidated Amended Text of the Collective Labour Relations Act is applicable to the public administration. The Committee duly notes the Government’s reply which indicates that: section 72 of the Consolidated Amended Text of the Collective Labour Relations Act and section 80 of the Regulations of the Civil Service Act provide that strikes are a collective action taken in accordance with the will of the majority; section 62 of the Regulations of Consolidated Amended Text of the Collective Labour Relations Act provides that the decision to call a strike must be adopted by “over half of the workers voting in the assembly”; and that while this provision has not been expressly recognized by the Civil Service Act or its regulations, the Consolidated Amended Text of the Collective Labour Relations Act and its regulations supplements the Civil Service Act by virtue of its section 40; and that, consequently, section 62 of the Collective Labour Relations Act is applicable to strikes in the public administration.

Determining the unlawfulness of strikes. In its previous comments, the Committee requested the Government to take the necessary measures to ensure that the authority to determine a strike unlawful in the private sector does not lie with the labour administration but with an independent body. The Committee ***regrets*** that the Government does not provide its observations in this regard. With regard to the public administration, the Committee requested the Government to provide information on the Civil Service Support Commission, and to indicate whether sections 86, 87 and 88 of the Regulations of the Civil Service Act were applicable to strikes within the education sector. The Committee notes the Government’s indication that the Civil Service Support Commission has the authority to decide whether a strike is inappropriate or unlawful, and, in the case of a dispute, determine the minimum services in essential services and appoint the president of an arbitration court. The Committee also notes the Government’s indication that, due to the fact that the Civil Service Support Commission has yet to be established: (i) the Ministry of Labour and Employment Promotion remains responsible for taking the above decisions; (ii) at present, the Government is not in a position to provide information on the rules governing the operation, composition and nature of the Commission, or indicate whether strikes in the education sector fall within the Commission’s field of competence. ***In light of the above and observing that the Civil Service Support Commission has still not been established, the Committee once again requests the Government to take, without delay, the necessary measures to ensure that the authority to determine the lawfulness or unlawfulness of strikes, in both the private and public sector, does not lie with the Government, but rather with an independent body that has the trust of the parties. In this regard, the Committee expects that the Civil Service Support Commission will be established without delay and that it will be a genuinely independent body. The Committee requests the Government to provide information on any developments in this respect.***

Definition of minimum services in essential public services. The Committee notes the Government’s indication that: (i) section 82 of the Consolidated Amended Text of the Collective Labour Relations Act provides that workers shall guarantee the presence of the staff necessary to prevent a total interruption of essential public services and ensure continuity of services and activities as required; (ii) following the observation of the Committee on Freedom of Association, section 68 of the Regulations of the Consolidated Amended Text of the Collective Labour Relations Act was amended, and the amended text provides that, in the event of disagreement on the number and occupation of workers who are to provide an essential service during the strike, the labour authority shall designate an independent body, the Civil Service Support Commission, to make such decisions, and that these decisions will be adopted by the above authority as its own; (iii) although the Civil Service Support Commission has yet to be established and there are no regulations in this regard; and (iv) on 5 July 2018, a draft Supreme Decree amending the Regulations of the Collective Labour Relations Act was pre-published, under which the Ministry of Labour and Employment Promotion will determine, by means of a resolution, the technical requirements to be met by this body, and the reference fees to be paid, in order to fully regulate the procedure for resolving disputes on minimum services in essential public services. In light of the above, the Committee understands that the Civil Service Support Commission will be the competent body for determining the minimum services required during all strikes affecting essential services, which will be ensured by public administration officials or private sector workers. ***The Committee trusts that the Civil Service Support Commission will be established without delay, and that it will be a genuinely independent body. The Committee requests the Government to provide information on any developments in this regard.***

Right of trade unions to hold meetings and to access workplaces. In its previous comments, the Committee observed that sections 4 and 5 of the final supplementary provisions to Supreme Decree No. 017-2007-ED define as serious offences by head teachers and deputy head teachers in schools the acts of providing school premises for trade

union meetings and allowing political and/or union proselytizing in the educational institutions. ***Observing that the Government has provided no information in this regard, the Committee once again requests the Government to revise the final provisions of the above-mentioned Supreme Decree in order to enable head teachers in schools to determine, with the trade unions concerned, the modalities of access to workplaces that do not jeopardize the effective functioning of those facilities, and to provide information on any developments in this respect.***

Article 5. Establishment of federations and confederations. In its previous comments, noting that, under section 57 of the General Regulations of the Civil Service Act, two trade unions from the same field were required to establish a federation, the Committee requested the Government to indicate the regulations governing the operations of the confederations that group together both federations of private sector workers and federations of public administration workers. The Committee notes the Government's indication that: (i) the regulatory framework covering federations and confederations in the private sector comprises the Consolidated Amended Text of the Collective Labour Relations Act and its regulations, while the legislation applicable to the public sector comprises the Civil Service Act and its regulations; and (ii) with regard to mixed federations and confederations, that is, those composed of trade unions and workers from both the public and private sector, the possibility of establishing and joining such organizations is guaranteed by section 28 of the Political Constitution of Peru and by the Fourth Final and Transitional Provision of the Constitution, which provide, in general, for the right of workers to establish trade union federations of their own choosing.

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1964)***

The Committee notes the observations of the Autonomous Workers' Confederation of Peru (CATP), received by the Office on 2 September 2018, which denounce anti-union discrimination and violations of collective bargaining in practice. ***The Committee requests the Government to provide its comments in this regard.***

The Committee notes the Government's replies to the observations made in 2015 by the International Trade Union Confederation (ITUC) and the Single Trade Union of Workers of the Judiciary–Lima–Peru (SUTRAPOJ) concerning alleged violations of the Convention in practice.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. Judicial proceedings. In its previous comments, the Committee requested the Government to provide information on the length of the constitutional and ordinary labour proceedings relating to infringements of the rights to freedom of association and collective bargaining, and on the penalties imposed in cases of violations of these rights. The Committee notes the Government's indication that: (i) cases concerning infringements of the right to freedom of association are dealt with through the summary procedure provided for by the New Act on Labour Procedure; (ii) six cases concerning infringements of trade union rights were settled in 2016, 22 in 2017 and 11 in 2018 thus far; (iii) the gradual application of the New Act on Labour Procedure now covers 23 out of 35 judicial districts in the country and has led, particularly in second-level proceedings, to fewer delays in the resolution of appeals; and (iv) due to the limited allocation of resources and other factors, the length of first-level labour proceedings relating to infringements of trade union rights increased from 170 days in 2016 to 379 days in 2017, and in 2018, the average duration would be 635 days. The Committee recalls that the existence of legal provisions prohibiting acts of anti-union discrimination is not enough if they are not accompanied by effective and rapid procedures to ensure their application in practice (2012 General Survey on the fundamental Conventions, paragraph 190). ***Observing with concern that, despite the progressive application of the New Act on Labour Procedure, the length of first-level labour procedures relating to infringements of trade union rights has increased considerably in the last three years, the Committee requests the Government to take, in consultation with the relevant authorities, the necessary measures to reduce the duration of such procedures and ensure that cases are settled swiftly. The Committee requests the Government to provide information on any developments in this regard, and to continue providing information on the length of labour procedures regarding infringements of the right to freedom of association and collective bargaining, including ordinary, constitutional and second-level proceedings. The Committee also once again requests the Government to provide information on the penalties imposed in cases of anti-union discrimination.***

Workers with fixed-term contracts in the private sector. In its previous comments, noting the observations of the ITUC and the existence of several Committee on Freedom of Association cases on this issue, the Committee requested the Government to engage in dialogue with the workers' and employers' organizations concerned on the subject of protection against anti-union discrimination against workers under fixed-term contracts and to report on the outcome. The Committee notes the Government's reply, according to which: (i) the General Labour Act and the New Act on Labour Procedure provide, respectively, for penalties at the administrative and judicial levels, and for faster and more effective mechanisms to facilitate compliance with legal regulations on fundamental labour rights; (ii) the National Labour and Employment Promotion Council (CNTPE), a tripartite dialogue body, was re-established on 24 July 2018, and will be assisted by a standing commission on labour in developing a Social and Labour Dialogue Agenda to address several issues, including freedom of association, collective bargaining, arbitration and strikes. The Committee notes the Government's general indication regarding mechanisms for labour law compliance. ***In this regard, the Committee requests the Government to provide information on any specific measures taken by the labour inspectorate to ensure the effective protection of***

workers with fixed-term contracts against the potential non-renewal of their labour contracts on the basis of trade union activities. The Committee welcomes the re-establishment of the CNTPE and invites the Government to use this tripartite forum to examine the matter of protection against anti-union discrimination against workers with fixed-term contracts in the private sector. Observing that, in several cases before the Committee on Freedom of Association on this issue (in particular Cases Nos 3065 and 3170), the Government referred to the possibility of amending the provisions of the Act on the Promotion of Non-Traditional Exports, which would allow for the recurrent use of short-term recruitment, the Committee invites the Government to include this legislative aspect in tripartite consultations. The Committee requests the Government to provide information on the above discussions and their outcome.

Workers with fixed-term contracts in the public sector. In its previous comments, the Committee requested the Government to engage in dialogue with public sector trade unions on the subject of the protection against anti-union discrimination against workers under administrative service contracts and to report on the outcome. The Committee notes the Government's indication that: (i) the ongoing reform of the civil service aims to establish a single and exclusive regime for persons providing services in state public bodies; and (ii) the administrative service contracts served as a temporary system, which is to be gradually replaced by the Civil Service Act, and that the right to freedom of association of these workers is explicitly recognized in section 6(i) of Legislative Decree No. 1057 governing the special arrangements for the administrative service contract system. The Committee further notes that, according to the CATP, the Government has engaged in the mass dismissal of workers employed under administrative service contracts. **While noting that administrative service contracts will be gradually replaced and that this regime expressly provides for the right to freedom of association, the Committee once again requests the Government to engage in dialogue with public sector trade unions on the subject of the protection against anti-union discrimination against workers under administrative service contracts, and to report on the outcome.**

Article 4. Promotion of collective bargaining. Workers under training schemes. In its previous comments, the Committee requested the Government to revise the relevant legislation to explicitly recognize the right of collective bargaining of workers under training schemes. In this regard, the Committee notes that the Government: (i) reiterates that, in accordance with section 3 of the Act on Labour Training Schemes (Act No. 28518), the above arrangements are not subject to the labour regulations in force, but rather to specific regulations; (ii) the purpose of the training activities is not the production of goods or services, but rather the development of the skills and capacities of the beneficiaries, who therefore cannot be considered as workers; and (iii) the Government is working towards the adoption of the Act on specific public sector pre-vocational and vocational practices, and is revising the content of Act No. 28518 with a view to amending it and incorporating the comments of the Committee. The Committee wishes to recall that under the Convention, the recognition of the right to collective bargaining is general in scope and that, in particular, it should cover apprentices (see General Survey on the fundamental Conventions, 2012, paragraph 209). The Committee emphasizes in this regard that workers under training schemes must have the right to bargain collectively the conditions of their work and employment insofar as they participate in the activity of an enterprise or public institution. **While noting the future adoption of the Act on specific public sector pre-vocational and vocational practices and the revision of Act No. 28518, the Committee hopes that the Government will make the legislative changes required for the right to collective bargaining of workers under training schemes to be expressly recognized. The Committee requests the Government to provide information on any developments in this regard.**

Right to freely determine the level of negotiation. The Committee recalls that the issue of the right of the parties to freely determine the level of negotiation came to its attention several years ago and has given rise to a series of cases before the Committee on Freedom of Association (338th Report, Case No. 2375, paragraph 1227; 362nd Report, Case No. 2826, paragraph 1298; 387th Report, Case No. 3170, paragraph 589). After recalling that the level of negotiation should be negotiated between the parties, the Committee noted that the amendment of section 61 of the Regulations of the Collective Labour Relations Act (LRCT) through Supreme Decree No. 014-2011-TR according to which the parties may have recourse to arbitration (*arbitraje potestativo*) where an agreement is not reached during the preliminary negotiations on their level, provided that the negotiations have produced no results after three months. In this regard, the Committee further notes that section 61 of the Regulations was amended again through Supreme Decree No. 09-2017-TR of 31 May 2017, by establishing that, in addition to the three months mentioned above, at least six direct negotiation or conciliation meetings must have been held before the above recourse to *arbitraje potestativo* is possible. The Committee of Experts nevertheless observes that section 45 of the LRCT remains in force. This section establishes that, where a collective agreement does not exist, and in the absence of an agreement on the level of the agreement, negotiations will be held at the level of the enterprise. It also provides that, where an agreement exists at some level, in order to enter into another agreement at a different level, which will replace or supplement the first agreement, it is essential for this to be agreed between the parties. Observing that, in accordance with section 45 of the LRCT, in the event of disagreement between the parties and the absence of a collective agreement, the legislation gives precedence to negotiation at the level of the enterprise, the Committee recalls that it is necessary to ensure that collective bargaining can be carried out at any level, whether at the level of the enterprise, multiple-enterprise, sectoral or national level, and that the parties must be allowed to determine this level. **The Committee therefore requests the Government to engage in consultations with representative workers' and employers' organizations on the amendments to section 45 of the LRCT which are required to ensure that the level of collective bargaining is determined freely by the parties concerned, and on the mechanism for the**

settlement of disputes relating to the level at which the collective bargaining must take place. The Committee requests the Government to provide information on any developments in this regard.

Mechanisms to appoint the presidents of arbitration courts. The Committee duly notes the Government's indication that, in the event of disagreement between the parties, the presidents of arbitration courts are designated by drawing lots. The Committee notes with **interest** that this mechanism applies to both the private and public sectors.

Articles 4 and 6. Promotion of collective bargaining. Public sector workers. The Committee notes that the Committee on Freedom of Association drew its attention to the legal aspects of Case No. 3160 on the restrictions on collective bargaining concerning remuneration in the public sector (Committee on Freedom of Association, 382nd Report, paragraph 518). In its previous comments, the Committee urged the Government to take, in consultation with the trade unions concerned, the necessary measures to revise the Civil Service Act of 2013 and all relevant legislation, so that public sector employees who do not work in State administration can exercise their right to collectively negotiate matters relating to wages or of economic nature. The Committee notes the Government's indication that: (i) although the Constitutional Court declared unconstitutional the absolute restrictions on collective bargaining in the public sector that are provided for in the Civil Service Act (Cases Nos 0025-2013-PI/TC, 003-2014-PI/TC, 008-2014-PI/TC and 0017-2014-PI/TC) and in the Budgetary Acts of 2013, 2014 and 2015 (Cases Nos 0003-2014-PI/TC, 004-2013-PI/TC and 0023-2013-PI/TC), collective bargaining is a fundamental right set out in law, the specific content and scope of which are the responsibility of the legislator; (ii) the Constitutional Court has urged the Congress of the Republic to adopt rules on collective bargaining for the public sector, in the meantime applying "*vacatio sententiae*", meaning that the prohibition of collective bargaining for wage increases remains valid; (iii) Act No. 30823, adopted on 19 July 2018, empowered the executive authority to legislate, inter alia, on matters of economic management, including collective bargaining in the public sector; and (iv) several bills on collective bargaining in the public sector were referred to the Congress of the Republic. In this regard, the Committee notes that, on 18 October 2018, as a result of a parliamentary initiative, the Congress of the Republic adopted an Act on Collective Bargaining in the State Sector which, as established in its section 1, aims to regulate the exercise of the right to collective bargaining of organizations of public employees in accordance with article 28 of the Political Constitution of Peru, the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Labour Relations (Public Service) Convention, 1978 (No. 151), as well as pursuant to its section 4, negotiable matters include remuneration and other working conditions with an economic impact. The Committee observes, however, that it has yet to receive information on the promulgation of the abovementioned Act by the President of the Republic. With regard to collective bargaining on elements of public sector workers' remuneration, the Committee recalls, on one hand, the existence of mechanisms that allow for combining budgetary balance with the genuine exercise of collective bargaining in the sector, and, on the other hand, the importance of the compatibility of the legislative texts as a whole, including budget acts, with the Convention. ***While highlighting the specific obligations of the Government in accordance with Convention No. 151 with regard to the right of civil servants who work in the administration of the State to take part in the determination of their remuneration, the Committee firmly hopes that the Government will soon be in a position to provide information on the entry into force and application of a piece of legislation that will enable public sector employees who do not work in state administration to exercise their right to collectively negotiate matters relating to wages or of economic nature in conformity with the Convention. The Committee requests the Government to inform it of any progress in this regard.***

Philippines

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1953)

The Committee notes the observations received on 1 September 2018 from the International Trade Union Confederation (ITUC) and requests the Government to provide its comments thereon.

The Committee notes that, at the request of the 2016 Conference Committee on the Application of Standards, a direct contacts mission (DCM) was carried out in the country from 6 to 10 February 2017. The Committee welcomes the constructive engagement of all parties noted by the DCM and takes due note of its conclusions and recommendations which covered: (i) civil liberties and trade union rights; (ii) legislative issues; and (iii) the promotion of a climate conducive to freedom of association.

Civil liberties and trade union rights

The Committee notes the Government's detailed reply in relation to the earlier observations from the ITUC referring in particular to the efforts of the Department of Labor and Employment (DOLE) to conciliate in cases of tense industrial action, as well as interventions by the police to investigate alleged cases of violence and the settlement of certain disputes through the creation of a tripartite technical working group. The Government also refers to the ongoing investigation by the Commission on Human Rights of a case of alleged harassment of several union officials and Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE) union activists.

The Committee notes with **deep concern** however the new and grave allegations of the assassination of two trade union leaders in 2016, one of whom was gunned down in front of the National Labor Relations Commission in Quezon

City, and the ITUC's concern that the recently declared war by the Armed Forces of the Philippines (AFP) against so-called "reds" is reminiscent of earlier years when union and labour organizers were harassed, arrested, jailed, abducted and murdered after being tagged as "reds" by the military. The ITUC provides examples of targeted arrests of KMU labour organizers in 2017 and several allegations of police violence and arrests during peaceful strike action. ***The Committee requests the Government to provide a detailed reply to these allegations.***

Monitoring mechanisms. In its previous comments, the Committee requested the Government to continue to provide information on the functioning of the monitoring bodies in practice, the progress on cases addressed by them and further steps taken or contemplated to ensure a climate of justice and security for trade unionists in the Philippines.

The Committee notes that the Government recalls the establishment of the Administrative Order (AO) 35 Inter-Agency Committee (IAC) on extra-legal killings, enforced disappearances, torture and other grave violations of the right to life, liberty and security of persons, which as of 2016 had reviewed 335 cases, including 65 cases of extra-judicial killings (EJK) and attempted murders that were endorsed by the National Tripartite Industrial Peace Council – Monitoring Body (NTIPC-MB). Of these 65 cases, only 11 were verified by the Committee as EJK cases. The Committee ***regrets*** however to note from the Government's report that AO35 IAC has yet to reconvene due to the transition in the leadership of the Department of Justice and trusts that it will begin meeting again in the very near future. The Government indicates in the meantime that the DOLE issued AO32 on 25 January 2018 setting forth guidelines governing the mechanisms and functions of the NTIPC-MB and the Regional Tripartite Monitoring Bodies relative to cases involving EJK, harassment and abduction of trade union officers and members in the exercise of their right to freedom of association and collective bargaining. AO32 also institutionalized the creation of Tripartite Validating Teams. While noting the recent initiatives taken by the Government, including the creation of Tripartite Validating Teams, the Committee is nevertheless obliged to note with ***regret*** that several years later there remain numerous cases of trade union murders and other acts of violence for which the presumed perpetrators have yet to have been identified and the guilty parties punished. ***The Committee requests the Government to provide detailed information on the progress made by the Tripartite Validating Teams, the NTIPC-MB and other relevant bodies in ensuring the collection of the necessary information to bring the pending cases of violence to the courts and the outcome in this regard.***

The Committee notes in this regard the conclusions of the DCM on steps to combat impunity and the Government's indication that recommendations were made for reforms towards providing sufficient witness protection and building the capacity of prosecutors, enforcers and other relevant actors, especially in the conduct of forensic investigations. ***The Committee requests the Government to provide further detailed information on the steps taken in this regard.***

The Committee notes the Government's information in relation to the progress made on the prosecution of the three cases of killings of trade union leaders that had been raised in the ITUC previous observations but ***regrets*** to observe that the murder case of Rolando Pango, a farmworker leader, was dismissed due to insufficient evidence, the case of Florencio "Bong" Romano has not yet been deliberated on due to the non-reactivation of AO35 IAC, while the murder case of Victoriano Embang has been docketed but not yet concluded. ***The Committee expresses the firm hope that the investigations into the serious allegations of killings of trade union leaders as well as the ongoing judicial proceedings in this regard, will be completed in the very near future with a view to shedding full light, at the earliest date, on the facts and the circumstances in which such actions occurred and, to the extent possible, determining responsibilities, punishing the perpetrators and preventing the repetition of similar events. The Committee requests the Government to provide detailed information on any progress achieved in this regard.***

The Committee firmly hopes that all remaining alleged cases of violations of trade union rights will be the subject of appropriate investigations which will be vigorously pursued and that effective measures to ensure accountability will be taken by the Government. Recalling the DCM emphasis on the need for enforced implementation at national, regional and local levels via inclusive, responsive, transparent and accountable quality law enforcement, the Committee requests the Government to provide information on any developments in this regard.

Legislative issues

Labour Code. In its previous comments, the Committee has been noting the numerous amendment bills pending before Congress over many years and in various forms with a view to bringing the national legislation into conformity with the following Articles of the Convention.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their own choosing, without previous authorization. Aliens. The Committee had previously referred to the need to amend sections 284 and 287(b) of the Labor Code so as to grant the right to organize to all workers residing in the Philippines. The Committee notes the Government's statement that House Bill No. 1354 allowing foreign individuals to engage in trade union activities and House Bill No. 4488 allowing aliens to exercise their right to self-organization are ongoing deliberation at the House Committee level. ***While observing that the Government has been referring to amending legislation for several years now, and that the legislation has been introduced but not approved in prior sessions of the Congress, the Committee trusts that the necessary amendments will be adopted in the very near future and that they will ensure that any individual residing in the territory of a State, whether or not they have a residence or a working permit, benefit from the trade union rights provided by the Convention. The Committee requests the***

Government to provide information on progress made in this respect and to transmit copies of the amending legislation once adopted.

Other categories of workers excluded from the rights of the Convention. The Committee recalls that its previous comments expressed the hope that proposed legislative amendments would ensure in the near future that all workers (other than the armed forces and the police as determined by national law), including those in managerial positions or with access to confidential information, firefighters, prison guards and other public sector workers, as well as temporary or outsourced workers and workers without employment contract, enjoy the right to establish and join organizations to defend their occupational interests. The Committee notes that the Government refers in its report to House Bill Nos 4533 and 5477 and Senate Bill No. 641 establishing a Civil Service Code that are pending with the relevant committees and recalls that it ratified the Labour Relations (Public Service) Convention, 1978 (No. 151), in October 2017. ***The Committee, welcoming the Government's recent ratification of Convention No. 151, requests it to indicate the measures taken to ensure that all workers, without distinction whatsoever, including those mentioned above, are able to form and join the organizations of their own choosing and to transmit copies of the amending legislation once adopted.***

Registration requirements. The Committee had previously referred to the need to amend section 240(c) of the Labor Code so as to lower the excessive minimum membership requirement for forming an independent union (20 per cent of all the employees in the bargaining unit where the union seeks to operate). The Committee notes that the Government refers to a number of bills for the reduction of the minimum membership requirement: (i) House Bill No. 1355 seeking to reduce minimum membership requirement for registration of unions from 20 to 10 per cent has already been approved and is pending second reading; (ii) Senate Bill No. 1169 seeking to reduce the minimum membership requirement for registration of unions from 20 to 5 per cent and removing the priority authority requirement on foreign assistance; and (iii) House Bill No. 4446 removing the requirements for the registration of local chapters and promoting "employee free choice" by making it easier for workers to join and/or establish unions through "majority sign-up". ***While observing that the Government has been referring to amending legislation for several years now, the Committee expects that the necessary amendments will be adopted in the very near future reducing the minimum membership requirements so that the establishment of organizations is not hindered. The Committee requests the Government to provide information on progress made in this respect and to transmit copies of the amending legislation once adopted.***

Article 3. Right of workers' organizations to organize their activities and to formulate their programmes without interference by the public authorities. The Committee previously referred to the need to amend section 278(g) of the Labor Code to restrict government intervention leading to compulsory arbitration to essential services. Welcoming the issuance of Order No. 40-H-13, which harmonizes the list of industries indispensable to the national interest with the essential services criteria of the Convention, the Committee expected that the pending draft legislative amendments would ensure that government intervention leading to compulsory arbitration was limited to industries which can be considered as essential services in the strict sense of the term. The Committee notes the Government's indication in its report that there are four bills filed at the House of Representatives seeking to amend section 278 (House Bills Nos 175, 711, 1908 and 4447), while one Bill was ongoing deliberation in the Senate (Senate Bill No. 1221). ***The Committee trusts that the legislative amendments to section 278(g) to which the Government has been referring for numerous years will be adopted in the very near future and that they will ensure that government intervention leading to compulsory arbitration is limited to essential services in the strict sense of the term. The Committee requests the Government to provide information on the progress made in this regard and to transmit copies of the amending legislation once adopted.***

In its previous comments, the Committee trusted that sections 279 and 287 of the Labor Code would be amended to ensure that no penal sanctions are imposed against a worker for having carried out a peaceful strike. The Committee notes the Government's reiteration that House Bills Nos 175, 711, 1908 and 4447 are pending with the House Committee on Labor and Employment, while Senate Bill No. 1221 is ongoing deliberation in the Senate Committee on Labor, Employment and Human Resources Development. ***While observing that the Government has been referring to amending legislation for several years now, the Committee firmly trusts that sections 279 and 287 of the Labor Code will be amended in the very near future, thus ensuring that no penal sanctions are imposed against a worker for having carried out a peaceful strike, even if non-compliant with bargaining or notice requirements. It requests the Government to provide information on any progress made in this regard and to transmit copies of the amending legislation once adopted.***

The Committee had previously referred to the need to amend section 285 of the Labor Code, which subjected the receipt of foreign assistance to trade unions, to prior permission of the Secretary of Labor. The Committee notes that the Government reports that House Bill No. 1354 also provides for the extension of foreign assistance to labour organizations and workers' groups, while House Bill No. 4448 withdraws the prohibition of foreign trade union organizations to engage in trade union activities and the regulation of foreign assistance to Philippine trade unions. Both Bills are pending with the Committee on Labor and Employment. ***While observing that the Government has been referring to amending legislation for several years now, the Committee expects that the proposed legislative amendments removing the need for government permission for foreign assistance to trade unions will be adopted in the very near future. It requests the Government to provide information on any progress made in this regard and to transmit copies of the amending legislation once adopted.***

Article 5. Right of organizations to establish federations and confederations. The Committee previously referred to the need to lower the excessively high requirement of ten union locals or chapters duly recognized as collective bargaining agents for the registration of federations or national unions set out in section 244 of the Labor Code. The Committee notes the Government's statement that House Bill No. 1355 reducing the minimum membership requirement for registration of unions or federations has already been approved at the House Committee level and is pending for second reading, while Senate Bill 1169 reducing the membership requirement for federations from ten to five duly recognized bargaining agents or local chapters is ongoing deliberation in the Senate Committee. ***While observing that the Government has been referring to amending legislation for several years now, the Committee expects that the proposed legislative amendments will lower the excessively high requirement for registration and will be adopted in the very near future. It requests the Government to provide information on any progress made in this regard and to transmit copies of the amending legislation once adopted.***

The Committee further notes with *interest* the information concerning the progress made within the framework of the DOLE-ILO-EU-GSP+ Development Cooperation Project aimed at further improving the capacity of labour, employers and government toward the better implementation of freedom of association and collective bargaining. The project launch in 2017 resulted in the signing of a Tripartite Manifesto of Commitment and Collective Effort to Sustain Observance and Further Improvement on the Application of the Principles of Freedom of Association and Collective Bargaining. ***Noting that part of the National Action Plan under the project is the review and updating of the operational guidelines of the investigating and monitoring bodies in order to further strengthen and improve their operationalization as well as coordination and interplay, the Committee requests the Government to inform of all further developments in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Committee requests the Government to reply in full to the present comments in 2020.]

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1953)

The Committee notes the observations received from the International Trade Union Confederation (ITUC) on 1 September 2018 concerning challenges to the application of the Convention in practice. ***The Committee requests the Government to provide detailed information on the allegations raised therein.***

Articles 1, 2 and 3 of the Convention. Protection against acts of anti-union discrimination and interference. In its previous comments, the Committee requested the Government to continue to provide information on steps taken to ensure that all remaining allegations of acts of anti-union discrimination and interference raised by the national and international workers' organizations in their previous observations are addressed and, if need be, appropriate measures of redress are taken and sufficiently dissuasive sanctions imposed, so as to ensure the effective protection of the right to organize. The Committee takes due note of the detailed information provided by the Government and the resolution of these cases.

Concerning the need to take measures to strengthen in practice the protection available against acts of anti-union discrimination and interference, the Committee notes with *interest* the issuance on 18 October 2017 of Department Order No. 183 on new regulations on labour law inspection and the Revised Rules on the Administrative and Enforcement of Labor Laws which seek to strengthen the implementation of the visitorial and enforcement powers under the Labor Code towards securing a higher level of compliance with labor law standards. It further notes with *interest* the steps taken to ensure the participation of labor and employer organizations in the inspection of establishments provided through Department of Labor and Employment (DOLE) Administrative Order No. 164 of 2017 and the subsequent deputization of 126 trade union inspectors. Overall, the Government informs that out of more than 900,000 establishments nationwide, 136,986 were inspected from June 2016–June 2018. The intensified labour enforcement system has given rise to 217,491 workers being regularized.

As regards the authority to inspect in the export processing zones (EPZs) and special economic zones, the Government indicates that the Memorandum of Agreement which had been established between DOLE and the Philippine Economic Zone Authority (PEZA) was revoked on 8 January 2018 thereby affirming DOLE's authority to inspect establishments in these zones. DOLE additionally undertakes to intensify the conduct of inspections of all establishments within the zones in order to strictly enforce labour, technical and occupational safety and health standards

The Committee further notes with *interest* the information concerning the progress made within the framework of the DOLE-ILO-EU-GSP+ Development Cooperation Project aimed at further improving the capacity of labour, employers and government toward the better implementation of freedom of association and collective bargaining.

Article 4. Collective bargaining in the public sector. In its previous comments, the Committee recalled that under section 13 of Executive Order No. 180, only terms and conditions not otherwise fixed by law may be negotiated between public sector employees' organizations and the government authorities and requested the Government to take the necessary legislative or other measures to expand the subjects covered by collective bargaining, so as to ensure that public sector employees not engaged in the administration of the State fully enjoy the right to negotiate their terms and conditions of employment, including wages, benefits and allowances, and working time in accordance with *Article 4* of the Convention. The Committee notes the Government's indication that House Bills Nos 4553 and 5477 towards

establishing a Civil Service Code have been filed and are pending in Congress. The Committee further notes with *interest* the recent ratification of the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Government's indication that it still needs to develop a labour relations framework in the public sector that is aligned to Convention No. 151. The Committee expects that when designing this framework it shall bear in mind that *Article 4* of this present Convention calls for measures to be taken to promote machinery for voluntary negotiation on terms and conditions of employment for all workers, including those in the public service, with the exception only of those who are engaged in the administration of the State. ***The Committee trusts that the Government will take the necessary measures to ensure that all workers included in the scope of this Convention (including teachers, health-care workers, etc.) will be able to negotiate their terms and conditions of employment, including with respect to wages, benefits and allowances, and working time and requests it to keep it informed of developments in this respect.***

The Committee is raising other matters in a request addressed directly to the Government.

Poland

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

The Committee notes the observations of the National Commission of the Independent and Self-Governing Trade Union (NSZZ) "Solidarność" received on 9 August 2018. The NSZZ alleges that the Act on Universal Defence prohibits soldiers of the territorial defence forces, who are at the same time private sector employees, to establish and join trade unions in the private sector. The Committee notes the Government's indication that a draft legislation to amend the Act so as to grant soldiers of the territorial defence serving on a rotational basis association rights, unless the trade union activity is related to the performance of their military service, is currently being prepared for presentation to the Standing Committee of the Council of Ministers. ***The Committee requests the Government to provide information on the developments in this respect.*** The Committee further notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018 alleging violations of the principle of genuine tripartite consultation at the national level, and the Government's detailed response thereon. The Committee also notes the observations of the All-Poland Alliance of Trade Unions (OPZZ) received on 27 August 2018 which relate to the legislative issues raised by the Committee below.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join trade unions of their own choosing. In its previous comments, the Committee trusted that the draft Act on Trade Unions would be adopted in the near future so as to guarantee the right to all workers, without distinction whatsoever, including workers without an employment contract, to establish and join organizations of their own choosing, with the sole exception of members of the armed forces and the police. The Committee notes that the draft Act on Trade Unions was signed on 25 July 2018 and should enter into force on 1 January 2019. The Committee notes with *satisfaction* that under the amended Act, the right to establish and join trade unions will be extended to "persons working for money", which includes not only employees but also any person providing work for remuneration irrespective of the legal basis of contractual relationship. The Government indicates that the new definition of "a person working for money" means that membership in trade unions will now be open to persons hired under a mandate, contract for provisions of service, contract to perform specific tasks, as well as self-employed (i.e. sole traders and persons running a one-person business, other than in agriculture). Volunteers, interns and other persons who work without receiving remuneration will also be granted the right to join trade unions on the terms and conditions specified in the trade unions' by-laws.

Article 3. Right of organizations to elect their representatives in full freedom. The Committee had previously noted that according to section 78(6) of the Act on Civil Service, members of the civil service occupying senior positions cannot exercise trade union functions, and requested the Government to amend this provision so as to ensure that the right to elect representatives in full freedom, as well as the right to perform trade union functions is granted to all workers in the public service in their respective trade union organizations. The Committee notes that the Government reiterates its intention to remove this discrepancy on the occasion of the upcoming revision of the Act. ***The Committee firmly hopes that section 78(6) of the Act on Civil Service will be amended in consultation with the social partners without further delay. It requests the Government to provide a copy of the amended Act.***

Right of organizations to organize their activities in full freedom and to formulate their programmes. The Committee had previously noted that section 78(3) of the Act on Civil Service forbids civil servants to participate in strikes or actions of protest interfering with the normal functioning of the office. The Committee had trusted that the Government would consider establishing a procedure for determining exactly which public servants enumerated in section 19(3) of the Collective Labour Disputes Act and in section 2 of the Act on the Civil Service were exercising authority in the name of the State and for whom the right to strike could therefore be restricted. In this regard, the Committee suggested that a tripartite body could be established with the responsibility of identifying the relevant public servants, and that any disagreement could be settled by an independent body. The Committee notes the recommendation to the same effect made by the Committee on Freedom of Association in Case No. 3111 (see Report No. 378, June 2016, paragraphs 647–718). The Committee welcomes the Government's indication that a draft law dealing with the right of public employees to strike was submitted to the Council of Ministers. ***It requests the Government to provide information***

on all progress made in amending the Act on Civil Service so as to ensure the right to strike of civil servants, with the only possible exception of public servants exercising authority in the name of the State.

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
(ratification: 1957)

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2018 referring to a series of anti-union discrimination acts, including the dismissal of more than 20 "Solidarność" representatives. ***The Committee requests the Government to provide its comments on these observations, particularly with regard to the dismissed "Solidarność" representatives that have not been reinstated yet.*** The Committee also notes the observations from the National Commission of the Independent and Self-Governing Trade Union (NSZZ) "Solidarność" and the All-Poland Alliance of Trade Unions (OPZZ), received respectively on 9 and 27 August 2018 and the related comments from the Government.

Workers covered by the Convention. The Committee recalls that the Committee on Freedom of Association (CFA) (Case No. 2888) had requested the Government to ensure that all workers and their representatives enjoy adequate protection against acts of anti-union discrimination, regardless of whether they are or not considered an employee under the Labour Code or not. The CFA had referred the legislative aspects of this case to the Committee. In this regard, the Committee notes that the Act on Trade Unions (ATU) was amended on 25 July 2018, the amendments entering into force on 1 January 2019. The Committee notes that: (i) Article 2(1) of the ATU is now amended so as to recognize the right to establish and join trade unions not only to employees but also to "persons who work for money", these persons being defined as those who provide work for remuneration, as long as they do not employ any other person to perform this type of work and irrespective of the legal characterization of their employment; (ii) paragraphs 5–7 also extend the right to establish and join trade unions to pensioners, persons on disability pension, unemployed persons, volunteers, interns, and other persons who work in person without being paid as well as to persons delegated to employers in order to complete substitute service, officers of the police, border guards, custom-fiscal service employees, prison service employees, firefighters and employees of the Supreme Audit Office; (iii) new articles 3 to 5 of the ATU extend the prohibition of unequal treatment based on trade union membership and trade union activities to the above-mentioned categories of workers; (iv) new article 32(1) of the ATU extends the special protection against termination and unilateral modification of remuneration or employment conditions to "persons working for money" who are trade union representatives; and (v) article 26(2) of the amended ATU establishes that trade union organizations shall have the right to take a position in matters related to the collective interests and rights of persons who work for money. The Committee notes with ***satisfaction*** that the personal scope of application of the ATU anti-union discrimination provisions covers new categories of workers and therefore is no longer restricted to employees.

Article 1 of the Convention. Adequate protection against anti-union discrimination. Prompt and effective judicial protection. The Committee had noted in its previous comments that court proceedings could take up to two years for victims of anti-union dismissal. In this regard, the Committee had noted the Government's intention to consider establishing new measures in the Code of Civil Procedure that would grant employees concerned the right to remain in their jobs during the proceedings. The Committee notes that the Government refers once again to a possible legislative reform of the Code of Civil Procedure, notably the revision of article 477 and the addition of article 755. The Government indicates that the abovementioned amendments would give the courts the power to order measures in favour of employees by allowing them to remain in their jobs before the tribunal's final decision on the matter. ***While welcoming the initiative to give courts the power to allow workers to remain in their job pending the final decision on their anti-union dismissal complaint, the Committee trusts that the Government will soon be able to inform on the adoption of the mentioned amendments.***

In its previous comments, the Committee had also requested the Government to provide explanations concerning the very low number of sanctions imposed in relation to the number of legal actions filed under article 35 of the ATU for cases of anti-union discrimination. The Committee notes the Government's indication that: (i) the application of legal and criminal sanctions is left at the discretion of courts, in line with the principle of judicial independence guaranteed by the Polish Constitution; and (ii) article 35(1) of the ATU has been amended so as to provide a more detailed description of prohibited acts of anti-trade union actions and to make more effective the intervention of the legal protection authorities. While welcoming the fact that the amendment to article 35(1) has extended the list of anti-union acts subject to a penalty, the Committee observes that the definition of anti-union discrimination has changed little. ***The Committee requests the Government to provide statistics on the number of sanctions imposed under the new article 35(1) of the ATU and to inform on how the burden of proof is managed by the tribunals when applying the mentioned provision.***

Effective sanctions and compensation to prevent anti-union discrimination. In its previous comments, the Committee had noted from information received from the Government that, according to the Polish legislation and judicial practice: (i) workers subject to anti-union discrimination could be either reinstated or compensated; (ii) while reinstated trade union representatives were entitled to back pay in full, the maximum amount of back pay to the other reinstated workers was limited to two months; (iii) victims of anti-union dismissals not reinstated by the courts were granted a compensation of up to a maximum of three months' salary; and (iv) the level of fines imposed in practice as a

consequence of anti-union discrimination appeared to be very low (between US\$375–US\$425). In order to ensure that the sanctions established and enforced were sufficiently dissuasive to prevent future acts of anti-union discrimination, the Committee had, in its different comments, requested the Government to take the necessary measures to raise the level of fines applicable to anti-union discrimination acts as well as to increase the amount of compensation in cases of anti-union dismissal. The Committee notes the Government's indication that there are currently no projects to modify the legal provisions that would lead to an increase of the penal sanctions applicable to anti-union discrimination acts. *While welcoming the fact, as shown by the ITUC observations, that the courts do order reinstatements in case of anti-union dismissals, the Committee reiterates its request to the Government to take the necessary measures to raise the level of fines applicable to anti-union discrimination acts as well as to increase the amount of compensation in cases of anti-union dismissal. The Committee requests the Government to provide information on any progress in this respect. With regard to the protection against anti-union discrimination of "persons working for money" that are now covered by the ATU, the Committee requests the Government to specify: (i) whether the consequences of an anti-union termination of the contractual relationship of a "person working for money" are limited to or go beyond economic compensation; (ii) on which bases and in which manner is calculated the compensation the equivalent of six-months' pay applicable to "persons working for money" who are trade union representative and who would be subject to anti-union discrimination.*

Article 4. Promotion of collective bargaining. The Committee requests the Government to indicate the extent to which conditions of work, including pay, of "persons working for money" can be subject to collective bargaining.

Portugal

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1964)

The Committee notes the observations of the Confederation of Portuguese Industry (CIP) and of the General Confederation of Portuguese Workers – National Trade Unions (CGTP–IN), received on 10 August 2018 and on 4 September 2018, respectively, referring to the issues examined by the Committee below.

Article 4 of the Convention. Promotion of collective bargaining. Extension of collective agreements. In its previous comment, the Committee had observed that the model for the extension of collective agreements resulting from the Council of Ministers Decision No. 90/2012 of 31 October 2012 was questioned by both workers' and employer's organizations. The Committee had therefore invited the Government to conduct a tripartite dialogue on the rules applicable to the extension of collective agreements with a view to finding shared solutions. The Committee notes with *interest* the Government's indication that under the Medium-Term Tripartite Agreement, concluded on 17 January 2017, between the Government and most social partners sitting on the Standing Committee on Social Dialogue (CPCS) of the Economic and Social Council (CES), changes were made to the regime for issuance of extension ordinances, through Council of Ministers Decision No. 82/2017 of 9 June, revoking the earlier Council of Ministers Decision No. 90/2012 and introducing clear provisions on reasonable legal deadline for their publication. The Government states that now rather than imposing conditional criteria on issuance, the policy decision-maker must have access to data in order to weigh the social and economic circumstances that warrant such issuance, namely the economic and social identity and similarity of situations as to the scope of the extension and of the instruments in question, on which the decision must be based. The Committee notes the Government's indication that in accordance with this amendment, issuance of extensions must be preceded by an analysis of the: (i) impact on the payroll of the workers covered and to be covered, with a view to assessing the likely economic impacts of the extension; (ii) pay rise of the workers to be covered; (iii) impact on the wage scale and the narrowing of inequalities within the scope of the collective regulation to be extended; (iv) percentage of workers to be covered (in total and by gender); and (v) proportion of women to be covered. *The Committee takes due note of these elements and requests the Government to provide information on the application of the new extension regime, including on its impact on the overall coverage of collective agreements.*

Conditions for the expiry of collective agreements. The Committee notes that the CGTP–IN reiterates in its observation that the legislation governing the conditions for expiry of collective agreements contravenes the principle of free and voluntary collective bargaining. The CGTP–IN affirms in particular that: (i) pursuant to sections 501 and 502 of the Labour Code, the clauses of collective agreements providing that the agreement shall not expire unless it is replaced by a new agreement will lapse three years after the end of the term of the agreement; and (ii) the application of these provisions has resulted in the expiry of more than 100 collective agreements over the past few years. The Committee notes that the CGTP–IN finally affirms that a governmental proposal which aims at overcoming certain difficulties caused by the 2012 reform of the collective bargaining system does not address the issue as it would maintain the regime of expiry of validity of collective agreements. In this respect, the Committee also notes the CIP's statement that the expiry of validity of collective agreements does not violate *Article 4* of the Convention as it aims, through an effective promotion of collective bargaining, to ensure that collective agreements are not frozen in time and that they can adapt themselves to the new socio-labour realities, the previous legal regime having on the contrary entailed total inertia and stagnation in this regard. The Committee takes note of the respective positions of the CGTP–IN and the CIP. *Emphasizing that in the framework of the free and voluntary collective bargaining promoted by the Convention, the duration of the*

agreements, as well as the conditions for their expiry, are to be determined first and foremost by the parties concerned; and that, if the regulation of this matter is envisaged, it should, to the extent possible, reflect a tripartite agreement. The Committee encourages the Government to continue promoting social dialogue in relation to the issues outlined with a view to endeavour to come up with solutions accepted by the most representative employers' and workers' organizations. The Committee requests the Government to provide information on any development in this regard.

Compulsory arbitration. In its previous comment, the Committee had requested the Government to provide information on any new cases involving the application of sections 508(1)(c) and 509 of the Labour Code, which allow the Labour Minister to take a reasoned decision to have recourse to compulsory arbitration, in particular to indicate the awards of compulsory arbitration under section 508 (1)(c), and also to indicate whether a judicial appeal can be made against the decision of the Labour Minister. The Committee notes the Government's indication that during the period under review (1 June 2015 to 31 May 2018) no compulsory arbitral award was made under section 508(1)(c) and that the mentioned decisions of the Labour Ministers are appealable, pursuant to article 268(4) of the Constitution of the Portuguese Republic. **The Committee requests the Government to be kept informed on any new cases involving the application of the above-mentioned sections of the Labour Code.**

Representativeness of organizations. For a number of years the Committee had noted that the legislation: (i) cites by name the trade union organizations that are to form part of the CES and the CPCS, which means that some organizations that deem themselves representative are left out; and (ii) does not lay down objective criteria for determining the representativeness of employers' and workers' organizations, the Committee had thus requested the Government to take the necessary steps to determine and lay down objective, precise and predetermined criteria to evaluate the representativeness and independence of employers' and workers' organizations forming part of the CES and CPCS, and to amend section 9 of Act No. 108/91 concerning the CES accordingly. While observing that the CIP considers the mentioned processes as appropriate, the Committee takes note of the Government's indication that it will consult the social partners on the possibility of revisiting the "tripartite agreement for a new system of regulation of labour relations, employment policies and social protection", signed on 25 June 2008, in order to ascertain their views on the likelihood of giving effect to the agreement reached at that time on the organizations' representativeness, and that it is waiting for the trade union confederations and the employers' confederations to identify basic guidelines jointly for a tripartite agreement, so that the Labour Code can be amended. **The Committee hopes that the Government and the social partners will examine these matters in the near future and that the outcome of its discussions will lead to an agreement to amend the legislation along the lines that the Committee has been suggesting for years. The Committee requests the Government to provide information on any developments in this regard.**

Romania

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018. As well as the joint observations from the National Trade Union Confederation (CNS "CARTEL ALFA"), the Block of National Trade Unions (BNS) and the Confederation of Democratic Trade Unions of Romania (CSDR) received on 31 August 2018 which mainly relate to matters addressed by the Committee in its previous comments concerning the Social Dialogue Act. **The Committee requests the Government to send its comments thereon.**

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2015, which mainly relate to matters raised by the Committee under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). Furthermore, the Committee notes the 2014 observations from the ITUC and the Government's comments thereon. The Committee also notes the observations from the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

In its previous observation, the Committee had noted with satisfaction that a number of matters raised earlier had been resolved through the adoption of Act No. 62 of 2011 concerning social dialogue (Social Dialogue Act). The Committee noted, however, that certain issues had remained unaddressed, including the denial of the right to organize to certain categories of public servants (section 4); and excessive control of trade union finances (section 26(2)). The Committee also noted a number of additional discrepancies between the provisions of the Social Dialogue Act and the Convention in terms of scope of application of freedom of association under section 3(1) (self-employed, apprentices, dismissed or retired workers not covered), eligibility conditions for trade union officials (section 8), and restriction of trade union activities (prohibition of activities with political character in section 2(2)).

Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing. Workers without employment contract. As to the scope of application of freedom of association, the Committee notes the information provided by the Government in its report that self-employed workers enjoy freedom of association in accordance with Ordinance No. 26/2000 on associations and foundations, and that apprentices have the right to trade union affiliation under Act No. 279 of 2005 on apprenticeship in conjunction with the Labour Code. Noting that, as regards retired workers, the Government merely refers to Ordinance 26/2000, the Committee recalls that legislation should not prevent former workers and retirees from joining trade unions, if they so wish, particularly when they have participated in the activity represented by the union. **Noting that, in the absence of an employment contract, retired workers and dismissed or unemployed workers do not fall within the remit of the**

Labour Code, the Committee requests the Government to clarify whether such workers may, subject solely to union constitutions and by-laws, join a trade union or retain union membership after they cease to work.

Public officials. With respect to the denial of the right to organize to certain categories of public officials, the Committee notes the information provided by the Government that: (i) section 4 of the Social Dialogue Act excludes persons elected or appointed to positions such as president, parliamentarian, mayor, prime minister, minister, president of the Supreme Court, etc.; and (ii) judges are excluded under section 4 but have the right to join professional associations as provided by the European Charter on the statute for judges.

Article 3. Right of workers' organizations to organize their administration. With reference to the excessive control of trade union finances, the Committee notes the Government's indication that trade unions as legal entities are subject, without discrimination, to the national fiscal legislation, adopted after consultations with the social partners. The Committee considers that the powers afforded to state administrative bodies under section 26(2) (control over the economic and financial activity and payment of debts to the state budget) need to be limited to the obligation of submitting periodic reports, cases of complaints or serious grounds to suspect violations. **The Committee requests the Government to take measures to delete or amend section 26(2) of the Social Dialogue Act so as to bring it into line with the Convention.**

Right of workers' organizations to organize their activities and to formulate their programmes. Concerning the prohibition of political activities, the Committee notes the Government's indication that the prohibition is a constitutional measure seeking to ensure the independence of trade unions, and that the Convention only protects trade union activities that relate to the interests of union members. The Committee recalls that, while trade unions should not engage in political activities in an abusive manner promoting essentially political interests, provisions imposing a general prohibition on political activities by trade unions for the promotion of their specific objectives are contrary to the principles of freedom of association and unrealistic in practice, since trade unions may wish, for example, to express publicly their opinion regarding the Government's economic and social policy. **The Committee requests the Government to take measures to delete or amend section 2(2) of the Social Dialogue Act so as to ensure respect for the above principle.**

Right of workers' organizations to elect their representatives in full freedom. In the absence of information provided by the Government regarding the previously raised issue of eligibility conditions for trade union officers, the Committee recalls that conviction on account of offences that do not call into question the integrity of the person and are not prejudicial to the exercise of trade union functions should not constitute grounds for disqualification. **The Committee requests the Government to indicate the measures taken or envisaged to amend section 8 of the Social Dialogue Act so as to ensure respect for this principle.**

The Committee generally notes that the Government indicates that: (i) following an agreement in 2014 of the National Tripartite Council for Social Dialogue, two bipartite working groups have been set up concerning amendments to the Social Dialogue Act and concerning collective bargaining sectors and procedure but were unable to reach consensus on a common draft amending the relevant legislation; and (ii) a series of proposals for amendments to the Social Dialogue Act have been submitted to the ILO for comments in 2015 and the memorandum will be discussed by the National Tripartite Council. **The Committee trusts that the Government will take due account of its comments in the context of this legislative review and that the new legislation will be in full conformity with the Convention. It requests the Government to indicate any progress made in this respect. Recalling also that the Government recently benefited from ILO technical assistance seeking to ensure the conformity with the Convention of a draft Emergency Ordinance substantially amending the Social Dialogue Act, the Committee requests the Government to provide information on any developments in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1958)

The Committee notes: (i) the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018 alleging that the Social Dialogue Act of 2011 (SDA) is having disastrous effects on collective bargaining and that the 2018 proposed amendments to the SDA are not being consulted with the representative trade unions; and (ii) the joint observations of the Block of National Trade Unions (BNS); Confederation of Democratic Trade Unions of Romania (CSDR); National Trade Union Confederation (CNS 'CARTEL ALFA') received on 31 August 2018, also alleging the negative effects of the SDA on collective bargaining. **The Committee requests the Government to provide its comments thereon.**

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2015, which allege acts of anti-union discrimination and interference on the part of the employer. **The Committee requests the Government to provide its comments thereon.** Furthermore, the Committee notes the 2014 observations from the ITUC and the Government's comments thereon.

Article 4 of the Convention. Criteria of representativeness. The Committee had previously noted the representativeness criteria at enterprise level set out in section 51 of the Social Dialogue Act (union membership of at least 50 per cent plus one of the workers of the enterprise), and had requested the Government to take measures to ensure that if no union secures the absolute majority, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their own members. The Committee notes the information provided by the Government according to which: (i) all trade unions enjoy by virtue of section 1(b)(iii) and (u) of the Social Dialogue Act the right to collective bargaining in line with section 153 (the provision stipulates that any legally established trade union may conclude agreements with an employer or employers' organization that are only applicable to the members of the signatory union); and (ii) collective bargaining by representative trade unions leads, due to their legitimacy, to collective agreements with force of law applicable to all workers in the unit.

Furthermore, the Committee had previously observed that, according to section 135(1): (i) in enterprises without a representative trade union, if an enterprise-level union exists and is affiliated to a representative federation in the relevant sector of activity, the negotiation of a collective agreement will be carried out by that federation together with the elected workers' representatives; and (ii) in enterprises without a representative trade union, if an enterprise-level union exists but is not affiliated

to a representative federation in the relevant sector of activity, the negotiation of a collective agreement will be carried out by the elected workers' representatives. The Committee had requested the Government to ensure that the relevant legislation is amended in order to guarantee respect for the principle that negotiation between employers and organizations of workers should be encouraged and promoted. The Committee notes the Government's indication that: (i) the requirement, in case that there is only a non-representative enterprise union, of its affiliation to a federation representative at the relevant sectoral level, originates from the former legislation and has the support of the trade unions; and (ii) the recognition of the right of workers' representatives (elected from within the enterprise union(s) or among non-affiliated workers) to negotiate in the absence of a representative enterprise union or of a non-representative enterprise union affiliated to a representative sectoral federation, responds to the necessity to cooperate at enterprise level so as to avoid mutual challenges from unions and a deadlock in collective bargaining. The Committee understands that section 135 regulates the manner of negotiating a collective agreement applicable to all workers in the unit (*erga omnes*) in the absence of a representative union and of its ensuing legitimacy. The Committee observes that this lack of legitimacy might explain the requirement for the non-representative union to be affiliated to a representative sectoral federation in order for that federation to be able to negotiate, at the request and within the mandate of the union, together with the workers' representatives, an *erga omnes* collective agreement (section 135(1)(a)). However, the Committee observes that, in cases where a non-representative union is not affiliated to a representative sectoral federation, the negotiation of a collective agreement *erga omnes* can be carried out exclusively by elected workers' representatives, thus rendering obsolete the right of non-representative unions to negotiate on behalf of their own members (section 153). The Committee recalls in this regard that collective bargaining with representatives of non-unionized workers should only be possible when there are no trade unions at the respective level, and that appropriate measures should be taken, wherever necessary, to ensure that the existence of elected worker representatives is not used to undermine the position of the workers' organizations concerned. **The Committee requests the Government to take measures to amend the relevant legislation in order to guarantee the application of these principles.**

Collective bargaining in the public sector. In its previous comments, the Committee had noted that, in the public budget sector, which covers all public employees, including those who are not engaged in the administration of the State, the fixation of salaries is exclusively by law, and no salaries or other pecuniary entitlements exceeding the provisions of this law can be negotiated through collective agreements (sections 3(b) and 37(1) of Act No. 284/2010 on Unitary Salaries of the Staff Paid from the Public Budget). The Committee had welcomed section 138(3) of the Social Dialogue Act as amended, according to which, in cases where the wage entitlements are established in special laws between minimum and maximum limits, the concrete wage entitlements are determined by collective bargaining within the legal limits. Considering that this provision may be compatible with the Convention, depending on the practical application, the Committee had requested the Government to indicate the categories of employees in the public budget sector for which wage entitlements were established in special laws between minimum and maximum limits so that the concrete wage entitlements were determined by collective bargaining within those limits.

The Committee notes the Government's indications that: (i) the provisions relating to the negotiation of bonuses, increases and pecuniary rights (section 138(3) of the Social Dialogue Act and sections 12, 21–23 and 32 of Act No. 284/2010) are applied by respecting, during the negotiations, the minimum and maximum limits stipulated by the law and the special laws; (ii) such negotiations took place in the health and education sectors and resulted in agreements concerning pecuniary rights or fiscal advantages; (iii) unitary salaries under Act No. 284/2010 are based on a coefficient which is periodically reviewed in consultation/negotiation with the social partners, and to which salary increases are directly related; and (iv) a draft amendment to Act No. 284/2010 is currently being discussed. The Committee understands from the information provided by the Government and the annexes to Act No. 284/2010 that: (i) in case of pecuniary rights such as bonuses (e.g. for special, difficult or dangerous working conditions) and indemnities, negotiations are taking place with the trade unions concerned as regards the relevant workplaces, staff categories and amounts (which cannot exceed the legal limits); and (ii) in case of base salaries, however, the coefficient for the relevant staff category is fixed in the annexes to Act No. 284/2010 after consultation with the social partners. **Highlighting once again the need to ensure that, in addition to pecuniary entitlements, wages are equally included in the scope of collective bargaining for all public service workers covered by the Convention, the Committee requests the Government to take the necessary measures in full consultation with the social partners and, if necessary, with technical assistance from the Office, to bring national law and practice into conformity with Article 4 of the Convention, on the understanding that upper and lower limits may be fixed for the wage negotiations with the trade unions concerned. The Committee trusts that due account will be taken of its comments during the ongoing legal review of Act No. 284/2010 and requests the Government to provide information on any developments in this respect.**

More generally, the Committee notes that the Government indicates that: (i) following an agreement in 2014 of the National Tripartite Council for Social Dialogue, two bipartite working groups have been set up concerning amendments to the Social Dialogue Act and concerning collective bargaining sectors and procedure, but were unable to reach consensus on a common draft amending the relevant legislation; and (ii) a series of proposals for amendments to the Social Dialogue Act have been submitted to the ILO for comment in 2015 and the ILO memorandum will be discussed by the National Tripartite Council. **The Committee trusts that the Government will take due account of its comments in the context of this legislative review and that the new legislation will be in full conformity with the Convention. It requests the Government to indicate any progress made in this respect. Recalling also that the Government recently benefited from ILO technical assistance seeking to ensure the conformity with the Convention of a draft Emergency Ordinance substantially amending the Social Dialogue Act, the Committee requests the Government to provide information on any developments in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Russian Federation

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

The Committee notes the detailed response of the Government to the 2015 observations made by the Confederation of Labour of Russia (KTR) as well as to the KTR observations communicated with the Government's report.

Article 3 of the Convention. Right of workers' organizations to organize their administration and activities. The Committee recalls that it had previously requested the Government to ensure that workers of municipal services as well as civil servants who did not exercise authority in the name of the State could exercise the right to strike. The Committee notes the Government's explanation of the system of the civil service in the Russian Federation. The Government refers, in particular, to section 3(1) of the Law on State Civil Servants, which defines State Civil Service as a type of service carried out by citizens at their respective governmental positions aimed at executing the authority of various State bodies. Therefore, the prohibition of strikes in the civil service is necessary due to its specific functions, which should be uninterrupted to guarantee the exercise of the authority of various state bodies. The Government points out that this prohibition affects civil servants irrespective of the specific level and category of their position as all civil servants contribute individually and collectively towards the public aim of the civil service, through which the authority of the State is exercised. Likewise, the legislation prohibits the exercise of the right to strike by municipal civil servants, who exercise authority in the name of municipal bodies. While taking due note of this information, the Committee recalls the KTR's previous indication that section 9 of the Law on State Civil Service divides the duties of the civil service into four categories and that far from all civil servants covered by the Law are "officials exercising authority in the name of the State". ***Recalling that the right to strike may be restricted or prohibited only for public servants exercising authority in the name of the State, the Committee invites the Government to review, in consultation with the social partners, various categories of the State and municipal civil service with a view to identifying those that may fall outside of this narrowly interpreted category.***

With regard to its previous request to amend section 26(2) of the Law on Federal Rail Transport (2003) so as to ensure the right to strike of railway workers, the Committee notes that the Government reiterates the prohibition imposed by the legislation on workers in railway services engaged in the public railway sector and cargo. The Committee recalls that railway transport does not constitute an essential service in the strict sense of the term where strikes can be prohibited and that instead, a negotiated minimum service could be established in this public service of fundamental importance. ***The Committee once again requests the Government to take the necessary measures to amend section 26(2) of the Law on Federal Rail Transport so as to bring it into line with the Convention. It requests the Government to provide information on the measures taken or envisaged in this respect.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1956)

The Committee notes the Government's reply to the previous observations of the International Trade Union Confederation (ITUC) and the Confederation of Labour of the Russian Federation (KTR) on the application of the Convention. It welcomes the Government's indication that these observations will be further examined together with the social partners in the framework of activities aimed at giving effect to the Convention. ***Noting the Government's undertaking to report on the progress made in its next report, the Committee trusts that the Committee's comments below will be given effect, in consultation with the social partners.***

Articles 1, 2 and 3 of the Convention. Adequate protection against acts of anti-union discrimination and interference. In its previous comments the Committee had deeply regretted the lack of progress in the implementation of a proposal prepared by the KTR and the Federation of Independent Trade Unions of Russia (FNPR), following an ILO technical mission in the framework of the Committee on Freedom of Association (CFA) Case No. 2758 in 2011, which the Government and employers' representatives had agreed to examine in the framework of the Russian Tripartite Commission for the Regulation of Social and Labour Relations (RTK). The Committee recalls that this proposal refers to the need to draft specific legislative provisions with a view to make protection against violations of trade union rights, in general, and anti-union discrimination, in particular, more effective, and suggests to create a body with a specific mandate to examine cases of violations of trade union rights, including anti-union discrimination (such a mandate can also be undertaken by an existing body). The proposal also calls for training of relevant bodies and courts on freedom of association.

The Committee notes the Government's indication that a tripartite working group of the RTK met in August 2018 and will continue to meet on a regular basis to discuss the issue of protection against acts of anti-union discrimination. At the same time, the Government points out that the Ministry of Labour had examined, on several occasions, the proposals for legislative amendments aimed at bringing the national legislation into conformity with the international labour standards submitted by the KTR. The Ministry pointed out to the KTR that the majority of its proposals for amendment had previously formed part of two legislative drafts to amend the Labour Code, which were subsequently not supported by the Government and were dismissed by the Duma; therefore, it could not support the resubmission of the same proposals. The Government further indicates that the existing levels of protection of trade union rights and its members is sufficient and once again refers in this respect to the legislative provisions of the Law on Trade Unions, Code of Administrative Offenses and the Criminal Code. While the statistical data on criminal and civil cases related to anti-union discrimination is not collected by the courts, according to the Government, this does not mean that such cases are not being considered. The Government indicates that as from 1 January 2019, the Federal Service for Labour and Employment (Rostrud) will begin collecting the relevant statistics for submission, on a semi-annual basis, to the Ministry of Labour. The latter indicates its readiness to work together with the KTR to identify and analyse cases of anti-union discrimination, including in the framework of the RTK, as well as with the ILO with a view to possible development of new instruments in the field

of protection against trade union discrimination. The Committee notes the Government's request for technical assistance in this regard. In addition, the Government informs that the issue of protection of trade union rights is part of the regular training for labour inspectors and that it intends to hold a seminar on the relevant standards for the judiciary in the last quarter of 2018.

The Committee notes the observations of the KTR and the FNPR submitted with the Government report. The FNPR considers that the level of protection of trade unions and their members is not sufficient and is thus not in full conformity with the Convention and refers to several examples of anti-union discrimination affecting its members. It further points out that the Rostrud (labour inspection) does not deal with the issue of anti-union discrimination and that rather, this was under the competence of the prosecutors and courts. The FNPR considers that the collection of statistics in relation to the alleged cases of anti-union discrimination can be further discussed with the relevant authorities (Rostrud, Office of the Prosecutor and the judicial department of the Supreme Court). Furthermore, and with reference to the 2011 agreement, should it be decided that the RTK is to deal with the alleged cases of anti-union discrimination the necessary regulatory measures should be taken to that effect. The observations of the KTR are to the same effect.

Noting with interest the Government's stated intention to address, including with the technical assistance of the Office, the issues it has been raising for a number of years, the Committee expects that consultations with the social partners towards the implementation of proposals to which it had previously agreed will continue and would lead to giving full effect to the Convention. It requests the Government to provide information on the developments in this regard.

Article 4. Parties to collective bargaining. In its previous comments, the Committee had noted that, pursuant to section 31 of the Labour Code, when an enterprise trade union represents less than half of the workers in that enterprise, other non-unionized representatives could represent workers' interests. Considering that, in these circumstances, direct negotiation between the undertaking and its employees, bypassing sufficiently representative organizations where these existed, might be detrimental to the principle that negotiation between employers and organizations of workers should be encouraged and promoted, the Committee expected the Government to take immediate and decisive action to amend section 31 of the Labour Code. The Committee notes that the Government reiterates its previous explanation that the election of a representative body other than the primary trade union is an extreme measure and occurs only when there is no full representation (more than 50 per cent) of workers' interests by a trade union organization. The Government thus considers that this standard allows for the most optimal representation of the interest of workers within an organization or undertaking. However, it is ready to use all available opportunities to improve social dialogue using the best international practices and in this respect, would appreciate receiving technical assistance of the Office. The Committee notes that the FNPR is also of the view that this provision needs to be amended so as to ensure that other representatives can be elected only in the absence of another trade union. ***The Committee welcomes the Government's request for the technical assistance of the Office and trusts that this assistance will be provided in the near future with a view to ensuring that the national legislation is amended so as to give full effect to the Convention. It requests the Government to inform it of the progress made in this regard.***

Rwanda

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1988)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish organizations of their own choosing. In its previous comments, the Committee had requested the Government to review the provisions of Ministerial Order No. 11 referred to below to ensure that the procedure for the registration of employers' and workers' organizations is fully in conformity with the Convention:

- ***Judicial record.*** Under the terms of section 3(5) of Ministerial Order No. 11, of September 2010, an occupational organization of employers or workers, in order to be registered, has to be able to prove that its representatives have never been convicted of offences with sentences of imprisonment equal to or over six months. In the view of the Committee, conviction on account of offences the nature of which is not such as to call into question the integrity of the person concerned and is not such as to be prejudicial to the exercise of trade union functions should not constitute grounds for disqualification from holding trade union office.
- ***Time limits for registration.*** Under the terms of section 5 of Ministerial Order No. 11, the authorities have a time limit of 90 days to process the application for the registration of a trade union. The Committee recalls that a long registration procedure is a serious obstacle to the establishment of organizations without previous authorization, in accordance with ***Article 2*** of the Convention.

The Committee ***regrets*** that the Government provides no information on the measures taken or envisaged in this respect. ***The Committee once again requests the Government to take the necessary measures in consultation with the social partners to amend the abovementioned provisions, so as to ensure that the procedure for the registration of employers' and workers' organizations is fully in conformity with the Convention.***

Right of public servants to join a union of their own choosing. In its previous comments, the Committee had noted Act No. 86/2013, of 19 September 2013, on the General Statute of Public Servants, section 51 of which recognizes the right of public servants to join a union of their own choosing. It had requested the Government to indicate whether public servants, in addition to

the right to join a trade union, also enjoy the right to establish a union of their own choosing, and to indicate the relevant legislative provisions. The Committee *regrets* that the Government has not responded to this query. ***In the absence of a reply on this matter, the Committee reiterates its previous request.***

Article 3. Right of organizations to freely organize their activities and to formulate their programmes. In its previous comments, the Committee had noted that, under the terms of section 124 of the Labour Code, any organization requesting recognition as the most representative organization has to authorize the labour administration to check the register of its members and property. In this respect, the Government had previously indicated that the need to amend this provision was being reviewed in consultation with the social partners, and now indicates that a tripartite meeting agreed that the authorization requirement should remain. The Committee takes due note of this information.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1988)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference. In its previous comments, the Committee requested the Government to take steps to establish sufficiently dissuasive penalties for acts of anti-union interference and discrimination, particularly concerning the amount of legal compensation of trade union members. The Committee noted that, according to the provisions of section 114 of the new Labour Code (Act No. 13/2009), any act which infringes the provisions providing protection against acts of discrimination and interference should constitute an offence and incur the payment of damages. The amount of damages applicable for acts of anti-union discrimination against trade union members or officials is not, however, specified in the Act. The Committee notes that the Government reiterates that this matter will be duly taken into account during the current revision of the Labour Code. ***Recalling that it is important that the forthcoming version of the Labour Code covers all acts of anti-union interference and discrimination and that it provides for sufficiently dissuasive penalties, the Committee requests the Government to provide information on any new developments in this regard and to send a copy of the Labour Code once it has been adopted.***

Article 4. Promotion of collective bargaining. Referring to its previous comments concerning compulsory arbitration in the context of collective bargaining, the Committee noted that the collective bargaining dispute settlement procedure provided for in section 143 ff. of the Labour Code culminates, in cases of non-conciliation, in referral, at the initiative of the labour administration, to an arbitration committee whose decisions may be the subject of an appeal to the competent jurisdiction, whose decision shall be binding. The Committee once again recalls that, in order to preserve the principle of voluntary negotiation recognized by the Convention, compulsory arbitration is only acceptable in certain specific conditions, such as in essential services in the strict sense of the term, in the case of disputes involving public servants engaged in the administration of the State (*Article 6 of the Convention*), or in the case of an acute national crisis. ***Noting the Government's statement that its comments will be duly taken into account, the Committee trusts that the Government will take the necessary measures to amend the legislation in such a way that, except in the circumstances referred to above, a collective labour dispute in the context of collective bargaining may be submitted to arbitration or to the competent legal authority only with the agreement of both parties.***

Moreover, with reference to its previous comments, the Committee noted that section 121 of the Labour Code provides that, at the request of a representative organization of workers or employers, the collective agreement shall be negotiated within a joint committee convened by the Minister of Labour or his or her delegate or representatives of the labour inspection participating as advisers. In the absence of any new information from the Government on this matter, the Committee recalls that such a provision may restrict the principle of free and voluntary negotiation of the parties established by the Convention. ***The Committee once again requests the Government to take the necessary measures to amend section 121 of the Labour Code so as to ensure that the parties can freely determine the modalities of collective bargaining and in particular that they can decide as to whether or not a representative of the labour administration may be present.***

With regard to the question of the extension of collective agreements, the Committee in its previous observations noted that, under section 133 of the Labour Code, at the request of a representative workers' or employers' organization, whether or not it is a party to the agreement or on its own initiative, the Minister of Labour may make all or some of the provisions of a collective agreement binding on all employers and workers covered by the occupational and territorial scope of the agreement. The Committee notes the Government's reiteration that, in practice, the extension of a collective agreement is possible only subject to in-depth tripartite consultations. ***The Committee requests the Government to indicate the institutional framework in which these tripartite consultations take place, and to provide information on recent extension procedures.***

Collective bargaining in practice. ***Noting the Government's statement that it is committed to promoting collective bargaining, the Committee trusts that measures will be taken in this direction and that the Government will provide information on the National Labour Council's activities in the field of collective bargaining and on the number of collective agreements concluded, the sectors concerned and the number of workers covered.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Saint Lucia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1980)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2012.

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and to join organizations. For several years, noting that the "protective services" – which include the fire services and prison officers –

were excluded from the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999, the Committee had requested the Government to take the necessary measures to ensure the right to organize to fire service personnel and prison staff. The Committee notes that section 325 of the Labour Act 2006 also excludes "protective services" (which according to section 2 of the Act include the fire service and the correctional services) from the scope of application of the provisions which are dealing with the right to organize in the new legislation. *Noting that the Government indicates in its report that the issue of the right to organize fire service personnel and prison staff would be raised with the Minister of Labour, and recalling previous indications that the workers of these services benefit in practice from this right, the Committee once again requests the Government to indicate the manner in which service personnel and prison staff are assured the organizational rights provided in the Convention.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1980)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2012.

Articles 1, 2, 4 and 6 of the Convention. For several years, noting that the "protective services" – which include the fire services and correctional officers – were excluded from the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999, the Committee had requested the Government to take the necessary measures in order to grant fire service personnel and correctional staff the rights and guarantees provided for in the Convention. The Committee notes that the Labour Act 2006, which entered into force on 1 August 2012, repeals the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999. It further notes that section 355 of the Labour Act 2006 also excludes "protective services" (which according to section 2 of the Act include the fire service and the correctional services) from the scope of application of the provisions which are dealing with the right to bargain collectively in the new legislation. *Noting that the Government indicates in its report that fire service personnel and prison staff benefit in practice from the right to collective bargaining, and that the issue would be raised with the Minister of Labour, the Committee once again requests the Government to take the necessary measures to expressly grant in the legislation the right to collective bargaining to fire service personnel and correctional staff.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Saint Vincent and the Grenadines

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2001)

Articles 2 and 3 of the Convention. In its previous comment, the Committee referred to the need to amend sections 11 (3) and 25 of the Trade Unions Act (TUA) so as to eliminate the discretionary authority of the Registrar in respect of the registration of trade unions and to limit the powers of the Registrar to conduct investigations into the accounts of trade unions. The Committee expressed the hope that the Government would continue the consultations with the social partners and that the new Labour Relations Bill would be adopted in the near future to replace the TUA and that it would address the abovementioned issues. The Committee notes the Government's indication that no changes have been made to the legislation and that given the length of time elapsed since the last series of legislative consultations, it has become necessary to begin the process anew. It further notes the Government's indication that it has received funds from an international financial institution in order to undertake, in consultation with the social partners, the revision of the Labour Relations Bill. According to the Government, the consultation process will last 18 months, following which it will be presented to the Cabinet and, it is hoped, subsequently enacted by the Parliament. *The Committee notes with regret the lack of progress made in amending sections 11(3) and 25 of the TUA and firmly hopes that the revised Labour Relations Bill will be adopted in the very near future and that the Committee's comments above will be taken into account so as to give full effect to the Convention.*

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1998)

Legislative matters. In its previous comments, the Committee requested the Government to include in the legislation provisions which provide protection against acts of anti-union discrimination and interference by the employer and employers' organizations in workers' organizations (and vice versa) and which encourage collective bargaining in the public and private sectors. The Committee notes the Government's indication that no changes have been made to the legislation and that given the length of time elapsed since the last series of legislative consultations, it has become necessary to begin the process anew. It further notes the Government's indication that it has received funds from an international financial institution in order to undertake, in consultation with the social partners, the revision of the Labour Relations Bill, and that this process will, among others, include the comments raised by the Commission. *Recalling that its comments in this respect date back to 2001, the Committee firmly hopes that the revision of the Labour Relations Bill will soon lead to the adoption of a legislation that will give full effect to the Convention. The Committee recalls that the Government can avail itself of the technical assistance of the Office in this regard.*

Sao Tome and Principe

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1992)

Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference. The Committee recalls that for a number of years it has been requesting the Government to take the necessary measures for the adoption of appropriate legislation which imposes sufficiently effective and dissuasive sanction against acts of anti-union discrimination and acts of interference against trade union organizations, in accordance with the provisions of the Convention. ***Noting with regret that the Government limits itself to mention that, in practice, other laws are resorted to in order to compensate the mentioned legislative lacuna, the Committee requests once again the Government to take the necessary measure so as to ensure that the legislation contains specific and effective provisions concerning anti-union discrimination and interference. The Committee asks the Government to provide information on any developments in this regard.***

Article 4. Promotion of collective bargaining. Absence of a legal framework for the exercise of the right to collective bargaining and absence of collective bargaining in practice. In its previous comments, the Committee had noted that the right to collective bargaining is recognized in Act No. 5/92, but is not the subject of legal regulation, and that the adoption of a bill on the legal framework for collective bargaining has been pending for several years.

The Committee notes with **regret** that, in contrast with its previous reports, the Government affirms that there is no bill being elaborated in this respect. Recalling that, in its previous observation, the Committee has also expressed concern at the absence of collective agreements in the country, the Committee highlights that the absence of a legal framework can hamper the exercise of the right to collective bargaining. ***The Committee therefore requests the Government to take all the necessary measures, both in law and practice, to encourage and promote the development and utilization of collective bargaining. The Committee reminds the Government that it can avail itself of technical assistance from the Office in relation to the various matters raised and trusts that it will be able to note the progress in the near future.***

Senegal

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes the Government's comments in response to the observations of the International Trade Union Confederation (ITUC), received on 1 September 2015 and 1 September 2018, respectively regarding the recurrent difficulties linked to the registration of trade unions and the organization procedures for trade union elections in the education sector. The Committee also notes the observations of the National Federation of Independent Trade Unions of Senegal (UNSAS) and the Government's response, received on 31 August 2018, regarding issues already raised by the Committee. Lastly, the Committee notes the recommendations of the Committee on Freedom of Association in Case No. 3209 (see 384th Report, March 2018) proposing that the Government take the necessary measures to amend section 8 of Act No. 69-64 of 30 October 1969 (the Customs Staff Regulations Act) in order to remove the prohibition of customs workers' exercising of their trade union rights. ***The Committee requests the Government to indicate any progress in this regard.***

Bringing the legislation into conformity with the Convention. The Committee recalls that, for very many years, its comments have related to the need to amend several legal provisions to bring them into conformity with the Convention. While the Government has always expressed its willingness to make these amendments, the Committee notes with **deep regret** the absence of any significant progress in this regard. ***Under these conditions, the Committee urges the Government to take the necessary measures without delay to bring the national law into full conformity with the Convention on all of the following points.***

Article 2 of the Convention. Trade union rights of minors. It is necessary to amend section 11 of the Labour Code to guarantee the right to organize of minors who have reached the statutory minimum age for admission to work (15 years of age, under section L.145 of the Labour Code), both as workers and as apprentices, without a requirement for authorization from their parents or guardians. The Committee notes the Government's indication that a Bill amending section 11 was approved by the National Consultative Labour Council and that this amendment aims to guarantee that minors can freely join trade unions, without any restriction or prior authorization, from the age of 16 years, which is the age of completion of compulsory schooling in Senegal. ***The Committee once again trusts that every effort will be made in the near future to enable minors to freely join trade unions, once they have reached the minimum age for access to employment, as provided for in the Labour Code.***

Articles 2, 5 and 6. Right of workers to establish organizations of their own choosing without previous authorization. It is necessary to repeal Act No. 76-28 of 6 April 1976 and to amend section L.8 of the Labour Code in order to guarantee to workers and their organizations the right to establish organizations of their own choosing without previous authorization. ***Noting with regret that the Government confines itself to recalling that the procedure in question comprises only simple administrative formalities, the Committee urges the Government to take measures***

without delay to repeal the legislative provisions that restrict the freedom of workers to establish organizations of their own choosing, particularly the provisions concerning the morality and aptitude of trade union leaders or those which grant de facto the authorities the discretionary power of previous authorization, which is contrary to the Convention.

Article 3. Right of trade union organizations to exercise their activities in full freedom and to formulate their programmes. Requisitioning in the event of a strike. It is necessary to adopt the Decree implementing section L.276 of the Labour Code, establishing the list of jobs, so as to authorize the requisitioning of workers in the event of a strike only to ensure the operation of essential services in the strict sense of the term. The Committee notes with **regret** that the Government, by referring to Decree No. 72-17 of 11 January 1972, which establishes the list of posts, jobs and functions of which the occupant may be requisitioned, does not take into account the comments made by the Committee in 2006, as the Decree in question provides for the requisitioning of workers in the event of a strike for many posts, jobs or functions to which the definition of the term “essential services” does not apply in its strict sense (essential services are those the interruption of which would endanger the lives, safety or health of the whole or part of the population). **The Committee urges the Government to take the necessary measures to ensure that the implementing Decree of section L.276 of the Labour Code only authorizes the requisitioning of workers to ensure the operation of essential services in the strict sense of the term.**

Occupation of workplaces in the event of a strike. It is necessary to include in the Labour Code a provision providing that the restrictions set forth in section L.276 of the Labour Code concerning the occupation of workplaces or their immediate surroundings shall only apply when strikes cease to be peaceful or when respect for the freedom to work of non-strikers and the right of the management to enter the premises of the enterprise are hindered. **The Committee urges the Government to take the necessary measures to amend the legislation in this regard.**

Article 4. Dissolution by administrative authority. It is necessary to adopt legislative or regulatory provisions that expressly provide that the dissolution of seditious associations, as envisaged by Act No. 65-40 of 22 May 1965 on associations, may in no event be applied to occupational organizations. While the Government indicated in its previous report that the legislation was being brought into conformity in this regard, the Committee regrets that the Government has not reported any progress on this matter and that it merely indicates that administrative dissolution is not feasible under Senegalese law. **The Committee urges the Government to take the necessary measures to amend the legislation in this respect.**

[The Committee requests the Government to reply in full to the present comments in 2020.]

Serbia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018 as well as the observations of the Trade Union Confederation Nezavisnost, the Confederation of Autonomous Trade Unions of Serbia (CATUS) and the Serbian Association of Employers (SAE) received on 7 November 2018. **The Committee requests the Government to provide its comments thereon as well as on the outstanding observations made by the Union of Employers of Serbia and the Confederation of Free Trade Unions in 2012.**

Civil liberties. In its previous observation the Committee requested the Government to provide further information on the follow-up measures taken by the Ministry of Interior to investigate the ITUC allegation of an attempted assault during a strike organized by the Independent Trade Union of Police (NSP). The Government indicates that it has engaged with the NSP which indicated that it had no information regarding trade union activists who suffered physical violence before, during or after the strike and was only aware of disciplinary proceedings where a final legal decision was made.

Article 2 of the Convention. Right of employers to establish and join organizations of their own choosing without previous authorization. The Committee recalls once again that for a number of years, it has been commenting upon the need to amend section 216 of the Labour Act, which provides that employers' associations may be established by employers that employ no less than 5 per cent of the total number of employees in a certain branch, group, subgroup, line of business or territory of a certain territorial unit, in order to establish a reasonable minimum membership requirement. In its previous observations, the Committee had noted the Government's indication that the Committee's comments on section 216 would be taken into consideration in the course of the amendment of the Labour Act. The Committee had also observed that, in its conclusions, the 2011 Conference Committee considered that the Government should accelerate the long-awaited amendment of section 216 of the Labour Act and expressed concern at the lack of full participation of the social partners in the legislative review. **The Committee regrets that the Government's report does not contain any information in this respect and expects that the process of revising the relevant legislation will be conducted in full consultation with the social partners and that due account will be taken of the need to amend section 216 of the Labour Act in order to establish a reasonable minimum membership requirement that does not hinder the establishment of employers' organizations. The Committee expects that the legislative process will be completed in the near future and requests the Government to provide information on any developments in this regard.**

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2000)

The Committee notes the observations from the International Trade Union Confederation (ITUC) received on 1 September 2018 that concern: (i) alleged attempts by the Ministry of Education to blacklist trade union members in the education sector by obtaining confidential lists of unionized employees from school principals; and (ii) the alleged Government's contribution to the persistent and widespread undermining of social dialogue and collective bargaining by favouring yellow unions and the hampering of good faith collective bargaining by unduly delaying the registration and publication of collective agreements. The Committee also notes the observations from the Trade Union Confederation "Nezavisnost" received on 7 November 2018 that concern the alleged poor implementation of good faith collective bargaining in the country, notably the withdrawal of representativeness of certain trade unions during the bargaining process and certain employers' refusal to start the collective bargaining process or inappropriately extending this process for long periods. The Committee further notes the observations from the Confederation of Autonomous Trade Unions of Serbia (CATUS) received on 7 November 2018 that concern: (i) allegations of anti-union discrimination; (ii) a request to amend the existing Labour Act so as to grant the right to establish and join trade unions to all workers and not only to employees, given that a great number of people in the country are hired for non-standard work and remain completely unable to organize in trade unions or become members of existing organizations. ***The Committee requests the Government to provide its comments with respect to the issues raised by the ITUC, Nezavisnost and CATUS.***

Furthermore, the Committee notes with ***regret*** that the Government did not provide a reply to previous observations from the following workers' and employers' organizations: (i) CATUS and the Trade Union of Judiciary Employees of Serbia (TUJES) (2013); (ii) the International Organisation of Employers (IOE) and the Serbian Association of Employers (SAE) (2013); (iii) the Union of Employers of Serbia (UES) (2012 and 2014); (iv) the ITUC (2015); (v) Nezavisnost (2012); and the Confederation of Free Trade Unions (2012). ***The Committee urges the Government to provide its comments to the mentioned outstanding trade unions' observations.***

Article 1 of the Convention. Protection against anti-union discrimination in practice. In its previous comments, the Committee had requested further details to be provided on proceedings related to anti-union discrimination, including judicial proceedings, and their average duration. The Committee notes the Government's indication that the Commissioner for the protection of equality, who is in charge of receiving and reviewing complaints relating to anti-union discrimination, is authorized to initiate strategic lawsuits and/or provide recommendations to persons accused of discrimination. Even though the person accused of discrimination does not have to follow the recommendations, the Government indicates that action was taken on the basis of the recommendations, in 89.1 per cent of the cases in 2015, in 76.7 per cent of the cases in 2016, and in 75.86 per cent of the cases in 2017. While noting that the Government indicates that the biggest number of complaints lodged against the Commissioner belongs to the field of labour and employment (36.3 per cent in 2015; 33.9 per cent in 2016; and 31.2 per cent in 2017), no information is provided on the number of anti-union discrimination cases handled by the Commissioner nor on the type of action and recommendations issued by the Commissioner. ***The Committee therefore requests the Government to: (i) provide more details on the cases handled by the Commissioner for the protection of equality specifically related to anti-union discrimination, and (ii) provide information on labour inspection and judicial proceedings related to anti-union discrimination cases, their average duration and outcomes.***

Article 4. Promotion of collective bargaining. Representativeness of workers' and employers' organizations. The Committee recalls that for many years it has been examining the conditions and mechanism for the establishment of the representativeness of trade unions and employers' organizations. In its last comment, the Committee had requested the Government to provide information on the efficiency and operations of the amended section 229 of the Labour Act, which establishes decision-making by majority and allow the Minister to decide upon a request for representativeness without the Board's approval if it fails to submit a proposal to the Minister within 30 days from the date of the request. The Committee notes with ***regret*** that the Government did not provide any information in this regard and that, at the same time, it continues to receive trade union observations raising representativeness determination issues. ***Reiterating that methods for the determination of the most representative organizations should be based on objective, pre-established and precise criteria, the Committee requests once again the Government to indicate whether the new amendments have improved the Representativeness Board's operation and efficiency when dealing with requests to grant representativeness and whether the Government is developing any further amendments to the Labour Act in this regard.***

Percentage required for collective bargaining. In its previous comments, having noted that the Government and the social partners had started an initiative to review the Labour Act, the Committee trusted that the Government would take the necessary measures to lift the 10 per cent requirement for employers' organizations to be entitled to engage in collective bargaining. The Committee notes with ***regret*** that the Government provides no information in this respect. ***Recalling that the mentioned percentage is particularly high, especially in the context of negotiations at the sectoral or national level, the Committee requests once again the Government to take, in consultation with the representative social partners, the necessary measures to lower the above-mentioned percentage and to provide information on any developments in this regard.***

The Committee expresses once again the hope that the Government will take the necessary measures without delay in order to bring the legislation into conformity with the requirements of the Convention, taking into account the preceding comment, and requests the Government to indicate the progress made in this respect.

The Committee is raising other matters in a request addressed directly to the Government.

Seychelles

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1999)

Articles 2, 4 and 6 of the Convention. Pending legislative matters. The Committee recalls that for several years it has been requesting the Government to take measures to amend several provisions of the Industrial Relations Act (IRA). In its previous comments, the Committee had welcomed the Government's indication that the Ministry of Labour and Human Resources Development had established a tripartite Committee to review the IRA. The Committee notes the Government's indication that consultations were held in 2015 with the social partners and other key stakeholders on the proposed amendments to the IRA. The Committee further notes the Government's indication that a new consultancy contract was signed and that its work would start in July 2018 to continue the review of the IRA. ***The Committee trusts that the review of the IRA will soon be completed in consultation with the social partners and with the technical assistance of the Office, taking into account the Committee's previous comments in which it had requested the Government to take the necessary measures in order to:***

- ***adopt legislative provisions providing for protection against acts of interference by employers or their organizations in workers' organizations, in particular, acts which are designed to promote the establishment of workers' organizations under the domination or control by employers or employers' organizations, coupled with effective and sufficiently dissuasive sanctions; and***
- ***amend its legislation so as to ensure that recourse to compulsory arbitration in cases where the parties do not reach an agreement through collective bargaining is permissible only in relation to public servants engaged in the administration of the State (Article 6 of the Convention), essential services in the strict sense of the term and acute national crises.***

Additional developments. The Committee further notes the Government's indication that in June 2016 new provisions were merged into an Employment Bill on prevention of discrimination and harassment 2016 (EB 2016). In this regard, the Committee observes that the Government mentions several provisions that address the protection against anti-union discrimination. ***The Committee requests the Government to provide further information on the elaboration and adoption of the EB 2016.***

Sierra Leone

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1961)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2010.

The Committee notes the allegations of the International Trade Union Confederation (ITUC) in 2013 concerning restrictions to collective bargaining in the mining sector. ***It requests the Government to provide its observations thereon.***

Articles 1 and 2 of the Convention. Need to adopt specific provisions accompanied by sufficiently effective and dissuasive sanctions for the protection of workers and workers' organizations against acts of anti-union discrimination and acts of interference. The Committee had previously noted that the revision of the labour laws, prepared with ILO technical assistance, had already been submitted to tripartite meetings, that the comments of the tripartite body had been received and that the document had just been forwarded to the Law Officers' Department. The Committee had asked the Government to keep it informed of any further progress made in the preparation of the final draft document and to provide a copy of the revised legislation as soon as it had been adopted. ***Noting that, according to the information previously sent by the Government, the revision of the labour laws was submitted to the Law Officers' Department in 1995, the Committee requests the Government once again to make every effort to take the necessary action for the adoption of the new legislation in the very near future and to indicate the progress made in this regard.***

Article 4. The Committee requests the Government to provide detailed information on the collective agreements in force in the education sector and in other sectors.

The Committee therefore requests the Government to provide a detailed report on the application of the Convention, accompanied by copies of any legal texts concerning freedom of association adopted since 1992 (year of a draft Industrial Relations Act).

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Slovenia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1992)

Articles 2 and 3 of the Convention. Protection against acts of interference. In its previous comments, the Committee had requested the Government to take the necessary measures to ensure that national legislation contained specific provisions prohibiting acts of interference by employers or their organizations in the establishment, functioning and administration of workers' organizations, and providing effective and sufficiently dissuasive sanctions against such acts. The Committee notes that, in addition to reiterating that trade union activities are already generally protected by the Constitution of the Republic of Slovenia and that adequate judicial protection and sanctions against anti-union interference are set out in the Employment Relationship Act in sections 217 and 218, the Government indicates that violation of trade union rights is defined as a criminal offence in paragraph two of article 200 of the Criminal Code which stipulates that whoever breaches regulations and general acts by preventing employees or hindering them from exercising free association and carrying out union activities, or obstructs the implementation of union rights, or takes over a trade union shall be punished by a fine or sentenced to imprisonment for not more than one year. ***The Committee takes due note of the content of article 200 of the Criminal Code and requests the Government to indicate which circumstances fall within the definition of "takes over a trade union" and to provide information of its application in practice.***

The Committee is raising other matters in a request addressed directly to the Government.

Somalia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2014)

The Committee notes the observations of the Federation of Somali Trade Unions (FESTU), received on 1 September 2018, denouncing the climate of violence and impunity, non-recognition of unions in Ministries, and requirement of previous government endorsement for registration of unions. ***The Committee requests the Government to provide its comments in this respect.***

The Committee notes with **concern** that the Government's first report has again not been received. It is therefore bound to repeat its previous comments initially made in 2016.

The Committee had previously noted the 2015 observations of the Federation of Somali Trade Unions (FESTU) alleging restrictions on the exercise of trade union rights, in particular in the telecommunications and media sector, as well as repeated acts of harassment against trade union members. The Committee notes the observations from the International Trade Union Confederation (ITUC), received on 1 September 2017, referring to the same issues which, in the meantime, have been examined by the Committee on Freedom of Association (CFA) in a case brought by the FESTU (Case No. 3113). In this regard, the Committee notes that in its latest conclusions the CFA referred to a communication dated September 2017 whereby the Government: (i) acknowledged that the Ministry of Labour and Social Affairs sought advice from the state Attorney-General over the case and that the latter wrote to relevant ministries and guided concerned authorities to comply with the recommendations of the CFA; (ii) acknowledged that the FESTU, led by Mr Omar Faruk Osman, is the most representative workers' organization in the country; (iii) indicated that it was seeking to resolve political differences between the FESTU and policymakers within the Government; and (iv) requested the assistance of the Office to facilitate a constructive dialogue and to find a solution to the long-standing dispute in a harmonious manner (see Case No. 3113, 383rd Report). ***The Committee welcomes the commitment of the Government to engage in finding solutions with the assistance of the Office. The Committee expects that the Government will also take all necessary measures to provide without delay its first report on the application of the Convention, as well as information on meaningful progress made on the issues raised by the ITUC and the FESTU.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2014)

The Committee notes the observations of the Federation of Somali Trade Unions (FESTU) received on 1 September 2018, alleging acts of anti-union discrimination and interference. ***The Committee requests the Government to provide its comments thereon.***

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

The Committee had previously noted the 2015 observations of the Federation of Somali Trade Unions (FESTU) denouncing interference by the authorities in the activities of trade unions and harassment of trade union leaders, in particular in the telecommunications and media sector. The Committee notes the observations from the International Trade Union Confederation (ITUC), received on 1 September 2017, referring to the same issues which, in the meantime, have been examined by the Committee on Freedom of Association (CFA) in a case brought by the FESTU (Case No. 3113). In this regard, the Committee notes that in its latest conclusions the CFA referred to a communication dated September 2017 whereby the Government: (i) acknowledged that the Ministry of Labour and Social Affairs sought advice from the State General Attorney over the case and that the latter wrote to relevant ministries and guided concerned authorities to comply with the recommendations of the CFA; (ii) acknowledged that the FESTU, led by Mr Omar Faruk Osman, is the most representative workers' organization in the country; (iii) indicated that it was seeking to resolve political differences between the FESTU and policymakers within the Government; and (iv) requested the assistance of the Office to facilitate a constructive dialogue and to

find a solution to the long-standing dispute in a harmonious manner (see Case No. 3113, 383rd Report). *The Committee welcomes the commitment of the Government to engage in finding solutions in relation to the serious allegations of infringement of trade union rights in the telecommunications and media sector, with the assistance of the Office, and expects that the Government will also take all necessary measures to provide without delay its first report on the application of the Convention as well as information on meaningful progress made on the issues raised by the ITUC and the FESTU.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

South Africa

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2015. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature.

Trade union rights and civil liberties. Allegations of violent repression of strike actions and arrests of striking workers. The Committee notes the Government replies to the 2008, 2010, 2011 and 2012 ITUC observations denouncing, in different sectors, many instances of violent repression of strike actions, leading to injuries and death, as well as the arrest of striking workers by the public authorities. The Committee notes that the Government states that: (i) the incidents pointed out by the ITUC, although regrettable, do not reflect the overall situation of crowd management by the Public Order Police; (ii) the Public Order Police takes action only in cases of extreme provocation and misconduct by the crowd during the strikes; (iii) in such cases, only non-lethal measures are used such as rubber rounds (consisting of rubber balls not bullets), stun grenades, tear gas and water canon; (iv) as from 1 April 2012, all firearms discharged by police are investigated by the Independent Police Investigative Directorate; and (v) violent behaviour during strike action is unacceptable and undermines the system of collective bargaining in the country. While taking due note of the Government replies, the Committee observes that in its 2015 observations, the ITUC denounces the arrest of 100 community health striking workers in June 2014 and the killing, in January 2014, during a clash with the Police that took place in the context of a strike, of a union steward of the Association of Mineworkers and Construction Union (AMCU).

The Committee expresses its *concern* about the persistence, on the one hand, of violent incidents, leading to injuries and death, resulting from police intervention during strike actions and, on the other hand, of allegations of arrests of peaceful striking workers. The Committee recalls that, while strike actions shall be carried out in a peaceful manner, the authorities should only resort to the use of force in exceptional circumstances and in situations of gravity where there is a serious threat of public disorder, and that such use of force must be proportionate to the circumstances. Furthermore, the Committee recalls that the arrest, even if only briefly, of trade union leaders and trade unionists, and of the leaders of employers' organizations, for exercising legitimate activities in relation to their right of association constitutes a violation of the rights enshrined in the Convention.

The Committee has also taken note of the release, on 25 June 2015, of the report of the *Judicial Commission of Inquiry into the Events at Marikana Mine in Rustenburg*, regarding the violent death of numerous workers during a strike action in August 2012. The Committee observes that the report contains general recommendations addressing, among other elements, the use of firearms by the police during violent strike actions, the public accountability of the South African Police Service in case of similar events as well as the effective functioning of the Independent Police Investigative Directorate. *The Committee therefore requests the Government to provide information on the action taken to implement the recommendations of the mentioned Judicial Commission of Inquiry and trusts that the social partners will be consulted in this respect. The Committee requests additionally the Government to reply to the 2015 ITUC observations and to communicate the results of the investigation regarding the death of the AMCU union steward.*

Articles 2 and 3 of the Convention. Rights of vulnerable workers to be effectively represented by their organizations. In previous comments, the Committee had noted the ITUC allegations regarding the difficulties faced by casual workers to enjoy the rights of the Convention. The Committee notes with *interest* that the Labour Relations Amendment Act adopted in August 2014 contains provisions aimed at facilitating the representation by trade unions of employees of temporary employment services or labour brokers (that is, employees made available to a client which assigns their tasks and supervises the execution of these tasks). The Committee notes especially that: (i) by virtue of the Labour Relations Amendment Act, trade unions representing the employees of temporary employment services or of a labour broker are now in a position to exercise their organizational rights not only at the workplace of the employer, but also at the client's workplace; and (ii) employees of temporary employment services or of a labour broker who participate in a legally protected strike action are entitled to picket at the client's premises. *The Committee invites the Government to provide information on the application and impact of these provisions.*

The Committee additionally notes that, in its 2015 observations, the ITUC alleges that farmworkers are not in a position to meet the requirements to engage in legally protected industrial action. The Committee notes that the Government communicates the conclusions of the 2011 report on *Identifying obstacles to unions organizing in farms: Towards a decent work strategy in the farming sector*. *The Committee requests the Government to provide information on any measures taken or planned to be taken to implement the conclusions of the abovementioned report and to reply to the ITUC observations.*

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Sri Lanka

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1995)

The Committee takes note of the observations received from the International Trade Union Confederation (ITUC) and the Free Trade Zones and General Services Employees Union (FTZ & GSEU) on 1 and 14 September 2018, respectively.

The Committee notes the Government's comments on the 2012 observations of the ITUC alleging intimidation, arrest, detention and suspension of trade union activists and workers following a strike in an export processing zone (EPZ), as well as police violence during a workers' demonstration in an EPZ, including recourse to firing that led to the death of a worker and hundreds injured. It notes, in particular, the Government's indication that it respects and takes remedial measures to ensure freedom of association in both EPZs and other parts of the country, including in the framework of the National Human Rights Action Plan 2017–2021. The Government indicates that only a single occurrence, which took place in 2011, caused the death of a worker in the context of a riot, but that measures were taken with regard to this incident and that there were no other reported cases of intimidation, arrests, detention and/or suspension of trade union activists and workers in the course of a strike. The Committee, however, notes with *concern* the observations of the ITUC according to which several peaceful strikes were violently suppressed by the police and the army in 2016 and 2017, leaving many workers injured, and alleging incidences of intimidation and threats of physical attacks, in particular against workers in Free Trade Zones (FTZs). ***Once again recalling that a truly free and independent trade union movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of workers' organizations, the Committee requests the Government to provide its comments on the above allegations, and to take the necessary measures to ensure that the use of excessive violence in trying to control demonstrations is prohibited, that arrests are made only where serious violence or other criminal acts have been committed, and that the police are called in a strike situation only where there is a genuine and imminent threat to public order.***

With regard to the tripartite processes previously noted by the Committee, the Committee notes the Government's indication that the setting up of a tripartite committee for the FTZs was discussed at the National Labour Advisory Council (NLAC) but ultimately dismissed because the social partners were not in agreement. The Government states that, rather than establishing this committee, the scope of the NLAC should be expanded and that it should be reformed in order to take decisions related to labour policies. In this regard, the work relating to the reconstitution/reinvigoration of the NLAC was initiated in July 2018 with the technical assistance of the ILO, in the framework of the Decent Work Country Programme (DWCP) 2018–22. The Committee also notes the Government's indication that a study on labour law reforms was undertaken with ILO technical assistance, and that some of the gaps identified by the study are being addressed with a view to making the necessary legislative amendments. The Committee notes that the process of the labour law reform is ongoing and is featured in the DWCP 2018–22 as an area of priority. ***Expressing its hope that the labour legislation will be amended in the near future in full consultation with the social partners and taking into account the comments made by the Committee, the Committee requests the Government to provide information on any progress made in this respect. It also requests the Government to provide information on the progress made in reforming the NLAC, in particular with regard to how it will address the issues of application of the Convention with respect to workers in the FTZs.***

Article 2 of the Convention. Minimum age for trade union membership. In its previous observation, noting that the minimum age for admission to employment was 14 years and that the minimum age for trade union membership was 16 years (section 31 of the Trade Unions Ordinance), the Committee recalled that the minimum age for trade union membership should be the same as the minimum age for admission to employment. The Committee notes the Government's indication that the Ministry of Labour and Trade Union Relations (MoLTUR) is in the process of amending existing legislation to raise the minimum age of employment from 14 to 16 years, thus eliminating the discrepancy. According to the information communicated by the Government under the Minimum Age Convention, 1973 (No. 138), the laws that the MoLTUR is in the process of amending in this regard include the Employment of Women, Young Persons and Children Act No. 47 of 1956, the Shop and Office Employees Act No. 15 of 1954, the Factory Ordinance No. 45 of 1942, and the Employees' Provident Fund Act No. 15 of 1958. ***The Committee requests the Government to provide information on the progress made in this respect, and pending any such changes in the minimum age of employment, the Committee expresses the hope that section 31 of the Trade Union Ordinance will be amended in the near future and requests the Government to provide information on any developments in this regard.***

Articles 2 and 5. Right of public servants' organizations to establish and join federations and confederations. The Committee previously requested the amendment of section 21 of the Trade Unions Ordinance so as to ensure that trade unions in the public sector may join confederations of their own choosing, and that first-level organizations of public employees may cover more than one ministry or department in the public service. The Committee notes with *regret* that the Government reiterates that only staff officers of the public sector are restricted from forming federations, and makes no reference to the possibility of amending the Trade Unions Ordinance, as previously contemplated. The Committee once again emphasizes the need to ensure that organizations of government staff officers may join federations and

confederations of their own choosing, including those which also group together organizations of workers from the private sector, and that first-level organizations of public employees may cover more than one ministry or department in the public service. ***The Committee therefore urges the Government to take the necessary measures to amend section 21 of the Trade Unions Ordinance and to inform it of developments in this respect.***

Article 3. Dispute settlement machinery in the public sector. In its previous comments, the Committee noted that the Industrial Disputes Act – which provides for conciliation, arbitration, industrial court and labour tribunal procedures – did not apply to the public service (section 49), and that a mechanism for dispute prevention and settlement in the public sector was being developed with technical assistance from the ILO. The Committee notes the Government's indication that work on the mechanism for dispute prevention and settlement in the public sector will continue, with the support of the Ministry of Public Administration, and that it would communicate information on further progress in due course. ***The Committee expresses the hope that the appropriate mechanism will soon be developed and requests the Government to continue providing information on all progress made in this regard.***

Compulsory arbitration. In its previous observation, the Committee noted that, under section 4(1) of the Industrial Disputes Act, the Minister may, if he or she is of the opinion that an industrial dispute is a minor dispute, refer it, by an order in writing, for settlement by arbitration, to an arbitrator appointed by the Minister or to a Labour Tribunal, notwithstanding that the parties to such dispute or their representatives did not consent to such reference; and that, under section 4(2), the Minister may, by an order in writing, refer any industrial dispute to an industrial court for settlement. The Committee requested the Government to take the necessary measures to amend these provisions so as to bring them into line with the Convention. The Committee notes the Government's indication that 2.5 per cent of the total of industrial disputes received by the Department of Labour are referred to compulsory arbitration, and that 95 per cent of these cases are disputes relating to such matters as discrimination, bonus payments, promotions, etc. The Government specifies that no cases referred to compulsory arbitration in the recent past related to strike action. In addition, the Government indicates that the majority of trade union and employer representatives of the NLAC do not consider the amendment to the Industrial Disputes Act requested by the Committee to be necessary, and that compulsory arbitration is necessary as a last resort to protect both the employment of workers and the industry. The Committee underlines once again that section 4 of the Industrial Disputes Act affords a broad power to the Minister to refer industrial disputes to compulsory arbitration, in that this provision makes it possible for the Minister to prohibit strikes or end them quickly in cases that are not in line with the Convention. Notwithstanding that no industrial disputes related to strikes have been referred to arbitration in the recent past, the Committee is bound to reiterate that recourse to compulsory arbitration to bring an end to a collective labour dispute and a strike is admissible only when the strike in question may be restricted, or even prohibited, that is: (i) in the case of disputes concerning public servants exercising authority in the name of the State; (ii) in conflicts in essential services in the strict sense of the term; or (iii) in situations of acute national or local crisis. ***The Committee therefore once again requests the Government to take measures to amend section 4(1) and (2) of the Industrial Disputes Act so as to guarantee respect for the abovementioned principle.***

Article 4. Dissolution of organizations by the administrative authority. In its previous comments, the Committee requested the Government to take the necessary measures to ensure that in all cases where an administrative decision of dissolution of a trade union is appealed to the courts, the administrative decision would not take effect until the final decision is handed down. The Committee notes that while the Government provides information on the possibility for dissolved trade unions to appeal the decision and ask for re-registration, it does not indicate whether the appeal has the effect of a stay of execution. ***The Committee therefore once again requests the Government to take the necessary measures without delay to ensure that in all cases where the decision of the Registrar to withdraw or cancel the registration of a trade union is appealed to the courts (in accordance with sections 16 and 17 of the Trade Unions Ordinance), the withdrawal or cancellation of the trade union registration ordered by the Registrar (administrative authority) does not take effect until the final judicial decision is handed down.***

The Committee is raising other matters in a request addressed directly to the Government.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1972)***

The Committee notes the observations of the International Trade Union Confederation (ITUC) and of the Free Trade Zones and General Services Employees Union (FTZ and GSEU), received on 1 and 14 September 2018 respectively, concerning allegations of anti-union dismissals in export processing zones, acts of interference in union activities including the creation of parallel workers' organizations controlled by the employers and the refusal to recognize unions and bargain collectively. ***The Committee requests the Government to provide its comments in this regard.***

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. Effective and expeditious procedures. Having noted on several occasions that, in practice, only the Department of Labour can bring cases concerning anti-union discrimination before the Magistrate's Court, and that there are no mandatory time limits within which complaints should be made to the Court, the Committee urged the Government to take the necessary measures to ensure that workers who are victims of anti-union discrimination can lodge a complaint before the judicial courts. It also expressed the hope that the Industrial Disputes Act be amended so as to grant trade unions the right to bring anti-union discrimination cases directly before the courts. With respect to the possibility for the workers to lodge a

complaint before the judicial courts, the Committee notes from the Government that it acknowledges the fact that the matter has been discussed for years but that the majority of trade unions and the employers represented at the National Labour Advisory Council (NLAC) still dissent to amend the legislation in this regard. ***Taking note of the observations of the ITUC and the FTZ and GSEU, which allege acts of anti-union discrimination and highlighting that anti-union discrimination, being one of the most serious violations of freedom of association, affects both the fundamental rights of the victims and the rights of the organizations they are affiliated to, the Committee once again: (i) urges the Government to take the necessary measures in the near future to ensure that workers who are victims of anti-union discrimination can lodge a complaint before the judicial courts; (ii) expresses the hope that the Government will take the necessary measures to amend the Industrial Disputes Act so as to grant trade unions the right to bring anti-union discrimination cases directly before the courts; and (iii) requests the Government to provide further information on the number of cases of anti-union discrimination examined by the courts, the duration of proceedings and the sanctions or remedies imposed.***

Article 4. Measures to promote collective bargaining. Export processing zones (EPZs). The Committee notes from the Government that in 2017, 622 inspections were carried out in the EPZs, as against 422 in 2016, and that up to June 2018, 378 inspections have taken place. The Government also emphasizes that 20 trade unions have check-off facilities; seven enterprises have signed collective agreements, and five trade union facilitation centres are now operating in the EPZs, with a view to facilitating private meetings between workers and their representatives. ***The Committee requests the Government to continue to provide information on the measures taken to promote collective bargaining in the EPZs, as well as the number of collective agreements concluded by trade unions in the EPZs and the number of workers covered. In addition, the Committee requests the Government to indicate the respective numbers of trade unions and employees' councils in the EPZs, as well as the measures taken to ensure that employees' councils do not undermine the position of trade unions.***

Representativeness requirements for collective bargaining. In its previous comments, the Committee had requested the Government to take the necessary steps to review section 32(A)(g) of the Industrial Disputes Act, according to which no employer shall refuse to bargain with a trade union which has in its membership not less than 40 per cent of the workers on whose behalf the trade union seeks to bargain. The Committee notes from the Government that the matter was discussed within the NLAC but that the majority of trade unions do not want to change the threshold of 40 per cent. The Government indicates that the employer's representatives also have objections to this amendment as they have to deal with multiple trade unions and that in these circumstances the Department of Labour has taken the initiative to explain to unions who do not reach the required threshold that they could organize in order to operate as one. The Committee recalls that the determination of the threshold of representativity to designate an exclusive agent for the purpose of negotiating collective agreements which are destined to be applied to all workers in a sector or establishment is compatible with the Convention in so far as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice. In its 2012 General Survey on fundamental Conventions, paragraph 233, the Committee considered that the requirement of too high a percentage for representativity to be authorized to engage in collective bargaining may hamper the promotion and development of free and voluntary collective bargaining within the meaning of the Convention. The Committee nevertheless considers that if no union in a specific negotiating unit meets the required threshold of representativity to be able to negotiate on behalf of all workers, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members. ***The Committee expects that the NLAC and the Government will take the necessary measures to review section 32(A)(g) of the Industrial Disputes Act, in accordance with Article 4 of the Convention, in order to ensure that if there is no union representing the required percentage to be designated as the collective bargaining agent, the existing unions are given the possibility, jointly or separately, to bargain collectively, at least on behalf of their own members. The Committee requests the Government to provide information in this respect.***

Article 6. Right to collective bargaining for public service workers other than those engaged in the administration of the State. In its previous comments, the Committee had noted that the procedures regarding the right to collective bargaining of public sector workers did not provide for genuine collective bargaining, but rather established a consultative mechanism. The Committee had noted from the Government that: (i) the Industrial Disputes Act recognizes the right of private sector trade unions to bargain collectively with the employer or the authority concerned; (ii) in Sri Lanka, the private sector includes government corporations where a large segment of workers are engaged; and (iii) section 32(A) of the Act, which deals with unfair labour practices and collective bargaining, applies not only to trade unions in the private sector but also to trade unions in public corporations. The Committee observes from the Government that, although it considers that facilitating collective bargaining in the public sector could generate an uneven playing field, it is taking measures with a view to addressing this issue and will bring further information with its next report. In this respect, the Committee wishes to recall that there are mechanisms to allow the protection of the principle of equal remuneration for work of equal value in the public sector to be reconciled with the recognition of the right to collective bargaining. It also wishes to recall that, in order to give effect to Article 6 of the Convention, a distinction should be drawn between, on the one hand, public servants who by their functions are directly employed in the administration of the State (such as, in some countries, civil servants in government ministries and other comparable bodies, and ancillary staff), who may be excluded from the scope of the Convention and, on the other hand, all other persons employed by the government, by public enterprises or autonomous public institutions, who should benefit from the guarantees provided for in the Convention (see

2012 General Survey, paragraph 172). *In view of the above, and in light of section 49 of the Industrial Disputes Act, which excludes state and government employees from the Act's scope of application, the Committee once again requests the Government to take the necessary measures to guarantee the right to collective bargaining of the public sector workers covered by the Convention with respect to salaries and other conditions of employment. Recalling that the Government may have recourse to the technical assistance of the Office, the Committee requests the Government to indicate any progress made in this regard.*

[The Government is asked to reply in full to the present comments in 2019.]

Sweden

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1949)

Legislative developments. Posting of workers. The Committee recalls that in its previous comments it had noted with interest that, a parliamentary committee set up in November 2014 to consider legal amendments to the Foreign Posting of Employees Act (Lex Laval) had made a number of proposals to safeguard the Swedish labour market model and status of collective agreements in situations involving posted workers. The Committee had expressed its trust that the amendments ultimately adopted would ensure fuller compliance with the Convention for posting workers and organizations representing them.

The Committee notes with *interest* the Government's indication that the amendments to the Posting of Workers Act, which were presented to the Parliament in February 2017 and entered into force on 1 June 2017, create a more effective and efficient system for the protection of the rights of posted workers. The Committee further notes with *interest* that, in addition to amendments pertaining to the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), under the Act, as amended: (i) industrial action against an employer can be taken with the aim of bringing about a regulation by collective agreement (the employment conditions that trade unions can demand are still limited to the minimum conditions set out in the European Union Posting of Workers Directive); (ii) posted workers who are not members of the trade union that concluded the collective agreement have the right to invoke certain conditions in the collective agreement, ultimately in a Swedish court; and (iii) there are provisions on increased transparency and predictability when workers are posted, so that it is easier for foreign employers to find out in advance what conditions apply in the Swedish labour market. The Committee further notes that sections 10 and 11 of the Act require foreign employers to report to the Swedish Work Environment Authority when they post workers to Sweden and to appoint a contact person in Sweden, who shall be able to provide documents to agencies and employee organizations that show that the requirements of the Act have been fulfilled. In addition, sections 14 and 24 provide for financial penalties as well as damages in the event of non-compliance. *The Committee welcomes the legislative developments which have taken place since it last examined the situation in 2015 and requests the Government to provide information in future reports on the application in practice of the amended Posting of Workers Act since it entered into force in June 2017.*

Other developments. The Committee takes note of the Government's indication that, given that the long-term labour market conflict in the container port of Gothenburg has shown that the Swedish labour market model does not work satisfactorily, on 22 June 2017, it decided to appoint an inquiry to review the exercise of the right to take industrial action and in particular to decide whether it is possible and appropriate to: (i) limit the right to take industrial actions for purposes other than to regulate conditions in collective agreements (except for sympathy action and industrial action to recover unpaid wages); (ii) change the provisions on peace obligations in situations where an employer who is bound by a collective agreement with an employee organization is facing an industrial action by another employee organization; and (iii) establish a board which, when necessary, can take decisions on coordinating collective agreements and on peace obligations resulting from a collective agreement. The Government also indicates that, in addition, a bill drafted by the social partners addressing the issues in relation to the right to strike, is now being considered by the Ministry of Employment. *The Committee requests the Government to provide further details on the proposals made by the inquiry as well as on the developments concerning the adoption of the bill drafted by the social partners currently under consideration by the Ministry of Employment.*

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1950)

Article 4 of the Convention. Promotion of collective bargaining. Legislative developments. Posting of workers. The Committee recalls that in its previous comments it had noted with interest that, a parliamentary committee set up in November 2014 to consider legal amendments to the Foreign Posting of Employees Act (Lex Laval), had made a number of proposals to safeguard the Swedish labour market model and status of collective agreements in situations involving posted workers. The Committee had expressed its trust that the amendments ultimately adopted would have the effect of promoting voluntary collective bargaining for organizations representing posted workers.

The Committee notes with *interest* the Government's indication that the amendments to the Posting of Workers Act, which were presented to the Parliament in February 2017 and entered into force on 1 June 2017, create a more effective and efficient system for the protection of the rights of posted workers. The Committee further notes with *interest* that the

amendments include, among other things that: (i) an employer posting workers to Sweden must appoint a representative who is authorized to negotiate and conclude collective agreements requested by an employee's organization; (ii) industrial action against an employer can be taken with the aim of bringing about a regulation by collective agreement (the employment conditions that trade unions can demand are limited to the minimum conditions set out in the European Union Posting of Workers Directive); (iii) posted workers who are not members of the trade union that concluded the collective agreement have the right to invoke certain conditions in the collective agreement, ultimately in a Swedish court; and (iv) there are provisions on increased transparency and predictability so that it is easier for foreign employers to find out in advance what conditions apply in the Swedish labour market. The Committee further notes that sections 10 and 11 of the law require foreign employers to report to the Swedish Work Environment Authority when they post workers to Sweden and to appoint a contact person in Sweden, who shall be able to provide documents to agencies and employee organizations that show that the requirements of the Act have been fulfilled. In addition, sections 14 and 24 provide for financial penalties as well as damages in the event of non-compliance. ***The Committee welcomes the legislative developments which have taken place since it last examined the situation in 2015 and requests the Government to provide in future reports information on the application in practice of the Posting of Workers Act since it entered into force in June 2017. The Committee further requests the Government to provide statistics on collective agreements concluded with foreign employers as well as statistics on foreign employers that became bound by collective agreements through membership of an employers' organization.***

Switzerland

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1999)***

The Committee previously requested the Government to provide its comments in response to the September 2015 observations of the International Trade Union Confederation (ITUC) concerning anti-union dismissals in the press, publishing industry and health sector, and intimidation towards trade union members in the service-providing enterprises at Geneva airport. The Committee notes the Government's reference to the replies it sent to the Committee on Freedom of Association concerning dismissals in a hospital in the canton of Neuchâtel. ***The Committee recalls that the protection afforded to workers and trade union officials against acts of anti-union discrimination constitutes an essential aspect of freedom of association and invites the Government to provide information on the status of the other cases raised in the ITUC communication.*** The Committee is of the opinion that such information contributes to the assessment of the overall effectiveness of the protection offered at national level against acts of anti-union discrimination.

Articles 1 and 3 of the Convention. Adequate protection against anti-union dismissals. In its previous comments, the Committee welcomed the continuing tripartite dialogue relating to an increase in penalty limits for anti-union dismissals. The Government had commissioned a study into the protection afforded to workers' representatives, which was completed in January 2015 by the Study Centre for Industrial Relations of the University of Neuchâtel, which was the subject of discussion with the Tripartite Federal Committee for ILO Affairs in February 2015 in order to decide on the follow-up to the draft bill on the partial revision of the Code of Obligations.

In its last report, the Government indicates that a seminar was held on 8 May 2017, involving the Tripartite Federal Committee for ILO Affairs, federal administration, and representatives of trade union and employer movements, for a frank and open exchange on the complaints lodged against the Government with the ILO. According to the Government, the social partners held to their opposing positions. The employers' representatives consider that the number of anti-union dismissals is contestable owing to the lack of specific data from the courts. They do not wish to amend the provisions on the contract of employment by increasing penalties for cases of unfair dismissal and refer to solutions at the branch level to improve protection through collective labour agreements, such as that which had been signed in the machinery sector. The workers' representatives, however, are demanding that the solution of reintegration in the post be retained or, at a minimum, that the maximum total for compensation in cases of anti-union dismissal fixed by law at the equivalent of six months' wages be increased to 12 months, as solutions through agreements are in their view insufficient. The Government adds that, in the spirit of the seminar's conclusions, the State Secretariat for the Economy (SECO) and the Federal Office of Justice have initiated an assessment of the outcome of the seminar with the Swiss Federation of Trade Unions and the Union of Swiss Employers. The Government states that, in the social partners' view, the two sides are irreconcilable. It nevertheless intends to continue its efforts to find a solution. The Committee emphasizes that "compensation envisaged for anti-union dismissal should fulfil certain conditions and in particular: (i) be higher than that prescribed for other kinds of dismissal, with a view to the effective dissuasion of this type of dismissal; and (ii) be adapted in accordance with the size of the enterprises concerned" (see General Survey of 2012 on the fundamental Conventions concerning rights at work, paragraph 185). ***The Committee hopes that open tripartite dialogue that the Government intends to maintain on the matter of adequate protection against anti-union dismissal will continue and enable a solution to be reached which gives full effect to Article 1 of the Convention. The Committee invites the Government to report on any new developments in this regard.***

Article 4. Promotion of collective bargaining. The Committee notes the statistics available from the Federal Statistics Office on the collective agreements signed and the number of employees covered (from 1 March 2016, 38

legally binding national collective agreements covering 933,591 workers, as well as 38 extensive cantonal collective agreements covering 99,038 workers). *The Committee requests the Government to continue providing up-to-date statistical information on the number of collective agreements by sector and the number of workers covered.*

Syrian Arab Republic

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

The Committee notes that in its reply to the 2012 observations of the International Trade Union Confederation (ITUC) alleging the use of police and paramilitary force in dealing with protests, deaths, arrests and imprisonment of political and human rights activists, the Government indicates that: (i) the ILO has no constitutional mandate to interfere in countries' internal political affairs, rather its mandate is to examine allegations of economic nature or dealing with working conditions; (ii) the matter raised by the ITUC is being discussed by the Human Rights Council since 2011; (iii) the Government categorically refutes the use of violence against its citizens; the protests, killings and acts of vandalism were carried out by armed terrorist groups in order to destabilize the country; and (iv) the right to strike is provided for in article 44 of the Constitution (2012), which specifies that citizens have the right to assemble, to peacefully demonstrate and to strike. The Committee recalls that freedom of association is a principle with implications that go well beyond the mere framework of labour law. It further recalls that the ILO supervisory bodies have unceasingly stressed the interdependence between civil liberties and trade union rights, emphasizing that a truly free and independent trade union movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations (see the 2012 General Survey on the fundamental Conventions, paragraph 59). *The Committee expects the Government to ensure respect for this principle.*

Article 2 of the Convention. Scope of application. The Committee had previously requested the Government to indicate whether independent workers, civil servants, agricultural workers, domestic workers and similar categories, casual workers and part-time workers whose hours of work do not exceed two hours per day enjoy the rights provided for in the Convention. The Committee notes the Government's indication that by virtue of section 5(b) of the Labour Act No. 17 of 2010, domestic workers and similar categories, workers in charity associations and organizations, casual workers and part-time workers (workers whose hours of work do not exceed two hours per day) shall be subjected to the provisions of their employment contracts, which may not, under any circumstances, prescribe fewer entitlements than those prescribed by the Labour Act, including the provisions of the Law on Trade Union Organizations. The Committee considers, however, that the right to organize of the abovementioned categories of workers excluded from the scope of application of the Labour Act should be explicitly protected in law. *Therefore, the Committee requests the Government to take measures, in consultation with social partners, to adopt the necessary legislative provisions so as to ensure that these categories of workers enjoy the rights provided for in the Convention.* The Committee further notes that agricultural workers and agriculture work relationships, including collective bargaining, are governed by Agricultural Relations Law No. 56 of 2004, that domestic workers are governed by Law No. 201 of 2010, and that civil servants are governed by Basic Law on State Employees No. 50 of 2004. *The Committee requests the Government to indicate specific legislative provisions that regulate particular aspects of freedom of association rights of civil servants, agricultural workers, and domestic as well as independent workers, and to provide a copy thereof.*

Trade union monopoly. For several years, the Committee has been referring to the need for the Government to amend or repeal the legislative provisions which establish a trade union monopoly (sections 3, 4, 5 and 7 of Legislative Decree No. 84; sections 4, 6, 8, 13, 14 and 15 of Legislative Decree No. 3, amending Legislative Decree No. 84; section 2 of Legislative Decree No. 250 of 1969; and sections 26–31 of Act No. 21 of 1974). The Committee takes note of the Government's indication that workers have the right to establish independent trade unions if the union is affiliated to the General Federation of Trade Unions in Syria (GFTU). According to the Government, the application of trade union pluralism in several countries weakened trade unions and diminished workers' rights. Observing that all workers' organizations must belong to the GFTU and that any attempt to form a trade union must be subject to the consent of this Federation, the Committee considers that although it is generally to the advantage of workers and employers to avoid a proliferation of competing organizations, the right of workers to be able to establish organizations of their own choosing, as set out in *Article 2* of the Convention, implies that trade union diversity must remain possible in all cases. The Committee considers that it is important for workers to be able to change trade unions or to establish a new union for reasons of independence, effectiveness or ideological choice. Consequently, trade union unity imposed directly or indirectly by law is contrary to the Convention (General Survey 2012, op. cit., paragraph 92). *The Committee reiterates its previous request and expects that all necessary measures will be taken by the Government, in full consultations with the social partners, so as to bring the national legislation into conformity with Article 2 of the Convention. It requests the Government to inform it of any progress made in this regard.*

Article 3. Financial administration of organizations. The Committee recalls that its previous comments related to the need to amend section 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, so as to lift the power of the Minister to set the conditions and procedures for the investment of trade union funds in financial services and industrial sectors. The Committee notes the Government's indication that, in accordance with the

rights afforded to them by the Constitution, the GFTU and other unions are financially independent and have the right to conclude agreements and labour contracts in accordance with section 17 of the Law on Trade Union Organizations and the right to dispose of their funds and income in accordance with their internal regulations and decisions. *Noting with regret the absence of any new development in this regard, the Committee expects the Government to undertake, as soon as possible, the revision of section 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, in full consultations with the social partners. It also requests the Government to provide information on the measures taken or envisaged in this regard.*

Right of organizations to elect their representatives in full freedom. The Committee had previously requested the Government to provide specific information on the measures taken or contemplated to repeal or amend section 1(4) of Act No. 29 of 1986, amending Legislative Decree No. 84 which determines the composition of the GFTU Congress and its presiding officers. The Committee has stated on multiple occasions that it should be up to trade union constitutions and rules to establish the composition and presiding officers of trade union congresses. *Noting with regret the absence of any new development in this regard, the Committee expects that the Government will take the necessary measures, as soon as possible, in order to amend or repeal the above-mentioned provision in consultation with the social partners so as to ensure that organizations are able to elect their representatives in full freedom. It requests the Government to provide information on the measures taken or envisaged in this respect.*

Right of organizations to formulate their programmes and organize their activities. In its previous comments, the Committee had requested that the Government take the necessary measures to amend legislative provisions that restrict the right to strike by imposing heavy sanctions including imprisonment (sections 330, 332, 333 and 334 of Legislative Decree No. 148 of 1949, issuing the Penal Code). The Committee had further observed that no reference was made to the possibility for workers to exercise their right to strike in the chapter on collective labour disputes of the Labour Act. The Committee notes the Government's indication that section 67 of the Labour Act provides protection against dismissals of unionized workers for taking part in trade-union activities. *Recalling that in the past, the Government had indicated that the GFTU was working to modify the Labour Act to ensure coherence with articles of the Constitution granting workers the right to strike, the Committee expects that the law will be amended so as to bring it into line with the Convention and requests the Government to provide information in this regard. While noting the Government's indication that the agricultural sector is now governed by Law No. 56 of 2004, the Committee also requests the Government to indicate whether workers of this sector enjoy the right to strike and identify the relevant legislative provisions.*

While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1957)

Scope of the Convention. The Committee had previously requested the Government to specify and provide details concerning the legislative provisions affording to the following categories of workers the rights enshrined in the Convention: independent workers, civil servants, domestic servants and similar categories, workers in charity associations and organizations, casual workers and part-time workers whose hours of work do not exceed two hours per day. The Committee notes the Government's indication that : (i) pursuant to section 5(b) of the Labour Act No. 17 of 2010, domestic workers and similar categories, workers in charity associations and organizations, casual workers and part-time workers shall be subjected to the provisions of their employment contracts, which may not, under any circumstances, prescribe fewer entitlements than those prescribed by the Labour Act, including the provisions of the Law on Trade Union Organizations; and (ii) civil servants are governed by the Basic Law on State Employees No. 50 of 2004. *Noting that section 5(b) of the Labour Act excludes several categories of workers from its scope of application and exclusively refers to the content of their individual contracts of employment, the Committee requests the Government to specify the legislative provision recognizing the right to collective bargaining. The Committee further requests the Government to indicate legislative provisions regulating the right of collective bargaining for civil servants not engaged in the administration of the State. It further requests the Government to indicate whether independent workers enjoy the rights afforded by the Convention and to specify the relevant legislative provisions.*

Articles 1 and 2 of the Convention. Adequate protection against acts of interference. In its previous comments, noting that the Labour Act of 2010 does not expressly prohibit acts of interference on the part of the employers' or workers' organizations in each other's affairs, the Committee had requested the Government to take measures with a view to adopting clear and precise provisions prohibiting acts of interference, accompanied by sufficiently dissuasive sanctions. While observing that the Government does not provide specific information in this regard, the Committee recalls that under the terms of *Article 2* of the Convention, workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration. Acts of interference are deemed to include acts which are designed to promote the establishment of workers' organizations under the domination of an employer or an employers' organization, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers

and employers' organizations (see 2012 General Survey on the fundamental Conventions, paragraph 194). ***The Committee therefore requests the Government to take the necessary measures to ensure that the legislation explicitly prohibits all of the acts covered by Article 2 of the Convention and that it provides for sufficiently dissuasive penalties in this respect.***

Article 4. Promotion of collective bargaining. The Committee had previously noted that section 187(c) of the Labour Act grants an excessive power to the Ministry to object and refuse to register a collective agreement on any grounds that it deems appropriate during a 30-day period after filing the collective agreement and therefore requested the Government to amend the provision in order to fully guarantee the principle of free and voluntary collective bargaining established in the Convention. Additionally, it pointed out that pursuant to section 214 of the Labour Act, if mediation fails, either party may file a request to initiate dispute settlement through arbitration and accordingly recalled that compulsory arbitration is only acceptable in relation to public servants engaged in the administration in the State, essential services in the strict sense of the term, and acute national crises. The Committee observes that the Government merely states that all laws and subsequent amendments on the Labour Act were adopted in full consultation with social partners, and reiterates that section 187(c) of the Labour Act aims to ensure that collective agreements are in conformity with the abovementioned Act. ***The Committee once again requests the Government to take the necessary measures to ensure that sections 187(c) and 214 of the Labour Act are brought into conformity with the Convention.***

Arbitration bodies. The Committee previously requested the Government to take measures to amend section 215 of the Labour Act so as to ensure that the composition of the tribunal is balanced and has the confidence of the parties in the arbitration mechanism. ***Noting with regret the absence of any new development in this regard, the Committee expects that the Government will undertake, as soon as possible, the amendment of the abovementioned provision.***

Application of the Convention in practice. In its previous comments, the Committee requested the Government to indicate the measures taken to promote and encourage the greater development and utilization of procedures of voluntary negotiations between employers or employers' organizations and workers' organizations. ***While taking note that the Labour Act refers in its section 178 to collective bargaining and social dialogue, the Committee requests the Government to indicate, in practice, the measures taken or envisaged to promote and encourage the greater development and utilization of procedures of voluntary negotiations between employers or employers' organizations and workers' organizations to regulate the terms and conditions working through collective bargaining. It also requests the Government to provide information on the number of existing collective agreements, the sectors concerned and the numbers of workers covered by those.***

While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.

United Republic of Tanzania

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2000)

Articles 2 and 3 of the Convention. *Right of workers and employers, without distinction whatsoever, to establish organizations without previous authorization. Right of organizations to organize their activities and to formulate their programmes freely.* The Committee notes the Government's indication in its report that most of the issues raised by the Committee in its previous comments will be taken into account during the ongoing labour law reform. ***The Committee trusts that the Government will provide in full details on the measures taken in consultation with the social partners to comply with its comments and bring its legislation into conformity with the Convention on the following issues:***

- the need to amend section 2(1)(iii) of the Employment and Labour Relations Act (No. 6 of 2004) (ELRA) so as to ensure that prison guards enjoy the right to establish and join organizations of their own choosing;
- the need to amend section 2(1)(iv) of the ELRA so as to clearly indicate that only the military members of the national service are excluded from the scope of the Act;
- the need to amend section 76(3)(a) which prohibits picketing in support of a strike or in opposition to a lawful lockout;
- the need to amend section 26(2) of the Public Service (Negotiating Machinery) Act (No. 19 of 2003) requiring certain conditions to be satisfied for civil servants to take part in a strike, so as to align it with the relevant provisions of the ELRA which also applies to workers in the public service; and
- the need to ensure that any service designated as essential by the Essential Services Committee pursuant to section 77 of the ELRA is based on the strict definition of the term.

In relation to sections 4 and 85 of the ELRA, the Committee recalls its previous comments that, while the solution to legal conflicts arising as a result of a difference in the interpretation of a legal text should be left to the competent courts, prohibiting protest action in respect of all disputes possessing a legal remedy may unduly infringe upon the right to strike. The Committee notes that the Government limits itself to referring to the existence of a competent machinery to deal with

labour disputes. ***It therefore requests once again the Government to provide information on the practical application of the above provisions.***

Zanzibar

Articles 2 and 3 of the Convention. In its previous comments the Committee requested the Government to amend the following provisions so as to bring its legislation into full conformity with the Convention:

- Section 2(2) of the Labour Relations Act (No. 1 of 2005) (LRA), which excludes the following categories of employees from the LRA's provisions: (i) judges and all judiciary officers; (ii) members of special departments; and (iii) employees of the House of Representatives. In this regard, the Committee notes that the Government indicates that these categories are governed by their own laws but are not excluded from the right to organize. ***The Committee requests the Government to provide the relevant pieces of legislation.***
- Section 42 of the LRA, which forbids the union to use, directly or indirectly, its funds to pay any fines or penalties incurred by a trade union official in the discharge of his or her duties on behalf of the organization. The Committee notes the Government's indication that the law allows union funds to cover officers who incur penalties while discharging their duties on behalf of their organizations, although it does not allow fines to be paid from union funds. The Committee had recalled that trade unions should have the power to manage their funds without undue restrictions from the legislation.
- Section 64(1) and (2) of the LRA, which sets forth categories of employees that may not participate in a strike, including managers, and lists several services that are deemed essential, including sanitation services, and in which strikes are forbidden. The Committee notes the Government's indication that the categories referred to in these sections cannot be allowed to participate in strikes due to the nature of their positions and work. The Committee wishes to recall, however, that the prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State or in essential services in the strict sense of the term, that is services the interruption of which would endanger the life, personal safety or health of the whole or part of the population.
- Section 41(2)(j) of the LRA, which requires the Registrar's approval regarding institutions to which a trade union may wish to contribute. The Committee notes the Government's indication that this section will be removed.

The Committee expects that due measures will be taken without further delay and in consultation with the social partners to amend the legislative provisions referred to above. It requests the Government to provide information on the developments in this regard and reminds the Government that it may avail itself of technical assistance from the Office with respect to all issues raised in its present comments.

With respect to sections 63(2)(b) and 69(2) of the LRA, which determine that before resorting to strike and protest action respectively, the trade union must give the mediation authority at least 30 days to resolve it and subsequently give 14 days' advance notice explaining the purpose, nature and place and date of the protest action, the Committee requested the Government to shorten this 44-day period. The Committee takes due note of the Government's indication that the advance notice is not 14 days but 48 hours in the private sector and seven days in the public sector. ***The Committee requests the Government to indicate whether the same time frame for advance notices applies for strikes and protest actions.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ***(ratification: 1962)***

The Committee recalls that its previous comments concerned:

Scope of the Convention. The necessity to take measures to: (i) amend section 2(1)(iii) of the Employment and Labour Relations Act (No. 6 of 2004) (ELRA) so that members of the prison service enjoy the rights enshrined in the Convention; and (ii) amend section 2(1)(iv) of the ELRA so that it is clearly indicated that only the military members of the national service are excluded from the scope of the Act.

Article 4 of the Convention. Compulsory arbitration. Necessity to take measures to amend sections 17 and 18 of the Public Service (Negotiating Machinery) Act, so as to ensure that compulsory arbitration in the framework of collective bargaining, is only acceptable in relation to public servants engaged in the administration of the State (*Article 6 of the Convention*), essential services in the strict sense of the term and acute national crisis.

Noting that the Government indicates that the matters referred to above will be taken into account during the ongoing Labour law reform, the Committee expects that its next report will contain detailed information on progress made in this regard.

Article 4. Collective bargaining in practice. ***The Committee requests the Government to provide information on the number of collective agreements signed and in force in the country, indicating the sectors and the number of workers covered.***

Zanzibar

Article 4 of the Convention. Trade union recognition for purposes of collective bargaining. On several occasions, the Committee requested the Government to indicate whether, under section 57(2) of the Labour Relations Act of 2005 (LRA), where no union covers more than 50 per cent of the workers in a bargaining unit, the minority unions can enter into collective bargaining, at least on behalf of their members. The Committee notes that for the Government section 57(2) of the Act does not refer to the absolute majority and therefore cannot be understood as imposing a 50 per cent threshold for an organization to be authorized to engage in collective bargaining, as it reads: “A representative trade union for the purpose of [collective bargaining] means a registered trade union that represents the majority of employees at appropriate bargaining level and recognised as such under this section”. ***In view of the above, the Committee requests the Government to take the necessary measures with a view to modifying section 57 of the LRA in order to remove any ambiguity concerning the meaning of the term “majority” and clarifying that the most representative trade union shall have an exclusive right to bargain with the employer.***

Categories of employees excluded from the right to bargain collectively. In its previous comments the Committee had requested the Government to take the necessary measures to amend section 54(2)(b) of the LRA, so as to guarantee to managerial employees the right to collective bargaining with respect to salaries and other working conditions, and to indicate the categories of employees excluded from the right to bargain collectively by the minister under section 54(2)(c) of the LRA. The Committee notes that the Government agrees that these provisions can be amended. ***The Committee expects that the Government will take any necessary measures to ensure full compliance with the abovementioned principle and that it will be in a position to report on progress in this regard.***

The Committee reminds the Government that it may avail itself of technical assistance from the Office with respect to all issues raised in its present comments.

The former Yugoslav Republic of Macedonia

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1991)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

The Committee notes the Government’s reply to the comments made by the International Trade Union Confederation (ITUC), which concerned the operation of labour inspection and the length of judicial proceedings in cases of anti-union discrimination.

Article 4 of the Convention. Promotion of collective bargaining. The Committee welcomes the information provided by the Government concerning: (i) the launch of a project on the Promotion of Social Dialogue financed by the European Union, aiming to strengthen tripartite social dialogue, encourage collective bargaining and establish sectoral infrastructures for collective agreements, as well as operational mechanisms for the resolution of disputes; and (ii) the Government’s review of the Law on Labour Relations, in particular as to collective bargaining, with the assistance of the Office and in consultation with the social partners, to ensure full compliance with ILO Conventions. ***The Committee requests the Government to report on the outcome of the project and review process for the promotion of collective bargaining, including as to any measures undertaken as a result.***

Collective bargaining in practice. The Committee notes the information provided by the Government as to the number of collective agreements concluded in the country. ***The Committee requests the Government to continue providing information on the application in practice of the Convention, including statistical data concerning the number of collective agreements concluded in both public and private sectors and the number of workers covered.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Togo

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1960)

Referring to the follow-up to the recommendations of the Committee on Freedom of Association and the Governing Body concerning the violations of the rights of the members of the National Council of Employers of Togo (CNP-Togo) to freely choose their representatives and carry out their activities without interference, the Committee notes with *interest* the outcome of this dispute (see Case No. 3105, 382nd Report, June 2017).

However, the Committee notes with *regret* that the Government has not provided responses to the comments that it has been making for several years and that the Government merely reiterates that it will take account of the Committee’s comments in the ongoing process of legislative reform. ***The Committee urges the Government to immediately take the necessary steps to ensure the full conformity of the national legislation and regulations with the Convention, on the following points:***

- *Article 2 of the Convention. Trade union rights of minors.* Section 12 of the Labour Code needs to be amended so that minors who have reached the statutory minimum age for admission to employment (15 years of age under

section 150 of the Labour Code) can exercise their trade union rights without the need for authorization from their parents or guardians.

- *Article 3. Right of organizations to organize their activities and formulate their programmes.* Measures are needed to: (i) adopt the decrees referred to in sections 273 and 274 of the Labour Code on the determination of essential services in the event of a strike; and (ii) amend section 275 of the Labour Code, to ensure that the parties to a collective dispute are free to choose the procedure for the settlement of the dispute.
- *Application of the Convention in the export processing zone.* In its previous comments, the Committee requested the Government to: (i) specify the authorities empowered to supervise the application of the rights guaranteed by the Convention in the export processing zone; (ii) indicate the bodies authorized to settle collective labour disputes arising in the export processing zone; and (iii) provide information on all cases since October 2012 of labour disputes in the export processing zone that have been brought before labour courts and their outcomes, as well as all instances since October 2012 of conciliation for individual or collective labour disputes in the export processing zone.

The Committee urges the Government to provide information on any new developments in relation to the issues raised.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1983)

Article 4 of the Convention. Compulsory arbitration. The Committee recalls that its previous comments were concerned with section 260 of the Labour Code, which provides that, in the event of persistent disagreement between the parties to collective bargaining on certain points in a collective dispute, the Minister of Labour may submit the matter to an arbitration board following the failure of conciliation. The Committee recalled that the provision in question was contrary to the principle of the autonomy of the parties and the principle of free and voluntary negotiation set out in *Article 4* of the Convention. The Committee recalls that compulsory arbitration is only acceptable in relation to public servants engaged in the administration of the State (*Article 6*), essential services in the strict sense of the term and acute national crises. The Committee notes that the Government reiterates that the amendment of section 260 is envisaged as part of the overall revision of the Labour Code. **The Committee trusts that section 260 of the Labour Code will be amended in the near future so as to bring it into full conformity with the Convention and requests the Government to provide information on any developments in this regard.**

Promotion of collective bargaining in practice. The Committee notes the information on the six collective agreements in force in Togo, the most recent of which, adopted in December 2016, is concerned with the commercial sector. **The Committee requests the Government to continue providing information on the number of collective agreements concluded and in force in the country, the sectors concerned, and the number of workers covered by these agreements.**

Trinidad and Tobago

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1963)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 31 August 2016. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature. The Committee further notes the response of the Government to the ITUC's observations.

Articles 2 to 4 of the Convention. Trade Unions Act. The Committee notes that the ITUC alleges that a number of the provisions of the Trade Unions Act (TUA) unduly restrict trade union rights under the Convention. The Committee further notes that the Government indicates that it intends to review the TUA and that during the legislative reform project the comments of the ITUC will be considered as part of the review process. In this respect, the Committee observes that the following sections of the TUA raise issues of compatibility with the Convention: (i) section 10 requires unions to register, subjects the registration to the permission of the Registrar and provides that in the event of failure to register the officers or an unregistered trade union are liable to a fine of 40 dollars for every day for which the union remains unregistered (the Committee recalls that the right to establish organizations without previous authorization entails that the authorities should not have discretionary power to refuse the establishment of an organization and that the exercise of legitimate trade union activities should not be dependent upon registration); (ii) section 16(4) allows the Registrar to order an inspection of the books, accounts, securities, funds and documents of the trade union (the Committee recalls that financial supervision of unions should be limited to the obligation of submitting annual financial reports and verifications should be carried out only when there are serious grounds for believing that the actions of a union are contrary to its rules or the law, or when a significant number of workers request such verification by raising a complaint or in relation to allegations of embezzlement); (iii) section 18(1)(d) enables the Registrar to withdraw or cancel the certificate of registration on certain grounds (the Committee notes that under the Convention unions shall not be liable to be dissolved or suspended by the administrative authority, and that the possibility under section 18(1)(e) to appeal such decisions by the Registrar should have the effect of a stay of execution); and (iv) section 33 limits the right of unions to administer their funds in relation to political activities (unduly restricting the possibilities of unions to legitimately engage on matters of economic or social policy affecting their members or workers in general). **The Committee requests the Government to take the necessary**

measures to amend the abovementioned provisions and to bring the TUA and its application into full conformity with the Convention. Recalling that the Government may avail itself of the technical assistance of the Office, the Committee requests the Government to provide information on any development concerning the review and amendment of the TUA.

Article 3. Right of organizations to organize their activities freely and to formulate their programmes. In its previous comments, the Committee has been referring for a number of years to the need to amend or repeal the following sections of the Industrial Relations Act (IRA): (i) section 59(4)(a) concerning the majority required for calling a strike; (ii) sections 61(d) and 65 concerning recourse to the courts by either party or by the Ministry of Labour to end a strike; and (iii) section 67 (in conjunction with the second schedule) and section 69 concerning services in which industrial action may be prohibited. Furthermore, the Committee observes that section 2(3) of the IRA excludes from its scope of application the following categories of workers: members of the teaching service or employed in a teaching capacity by a university or other institution of higher learning, apprentices, domestic workers, and persons in enterprises with policy and other managerial responsibilities (all of which should enjoy the guarantees set out in the Convention, be it through the IRA or other applicable legislation). The Committee notes that the Government indicates that the Industrial Relations (Amendment Bill) 2015 was introduced in the House of Representatives on 1 May 2015 but that, after two readings, the Bill lapsed in June 2015 due to the end of the parliamentary term. The Government notes that a new parliamentary term commenced on 23 September 2015 and that it is anticipated that action will be taken in respect for the amendment of the IRA in due course. ***The Committee firmly hopes that the amendment of the IRA will address its comments related to sections 59(4)(a), 61(d), 65, 67 and 69. The Committee further requests the Government to clarify how the abovementioned categories of workers excluded from the scope of the IRA under section 2(3) enjoy the rights under Article 3 of the Convention. Recalling that the Government may avail itself of the technical assistance of the Office, the Committee requests the Government to indicate any progress made in this respect.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1963)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 31 August 2016. The Committee also notes the response of the Government to the ITUC's observations, including the Government's indication that these observations will be considered as part of the ongoing revision of the Industrial Relations Act (IRA).

Workers covered by the Convention. The Committee observes that section 2(3) of the IRA excludes from its scope of application the following categories of workers: members of the teaching service or employed in a teaching capacity by a university or other institution of higher learning, apprentices, domestic workers, and persons in enterprises with policy and other managerial responsibilities. In this respect, the Committee recalls that, according to *Articles 5 and 6 of the Convention*, only members of the armed forces and the police as well as public servants engaged in the administration of the State may be excluded from the guarantees set out in the Convention. ***The Committee thus requests the Government to indicate the manner in which the categories of workers excluded from the IRA and mentioned above, enjoy the guarantees under the Convention.***

Article 4 of the Convention. Representativeness for the purposes of collective bargaining. In its previous comments, the Committee has been referring to the need to amend section 24(3) of the Civil Service Act, which affords a privileged position to already registered associations, without providing objective and pre-established criteria for determining the most representative association in the civil service. The Committee notes that the Government indicates once again that the matter of the amendment of section 24(3) is still under consideration as it requires extensive continuing dialogue. The Committee recalls that where there exists a trade union which enjoys preferential or exclusive bargaining rights, as in the current system, decisions concerning the most representative organization should be made by virtue of objective and pre-established criteria instead of simply giving priority to the one which was registered earlier in time, so as to avoid any opportunities for partiality or abuse. ***The Committee expresses the firm hope that section 24(3) of the Civil Service Act will be modified in the near future so as to bring it into conformity with the Convention, and requests the Government to indicate any developments in this regard.***

In its previous comments, the Committee also referred to the need to amend section 34 of the IRA in order to ensure that, in cases in which no trade union represents the majority of workers, the minority unions can jointly negotiate a collective agreement applicable in the negotiating unit, or at least conclude a collective agreement on behalf of their own members. The Committee notes the Government's indication that the concerns of the Committee are noted and will continue to receive the attention of the Industrial Relations Advisory Committee. The Committee also observes that the Government notes, in its report under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), that a bill to amend the IRA was introduced in 2015 and is before the House of Representatives. ***The Committee hopes that the amendment of the IRA will address its comments and that measures will be taken to ensure that minority unions can jointly negotiate a collective agreement applicable in the negotiating unit, or at least conclude a collective agreement on behalf of their own members when there is no union that represents the majority of workers. Recalling that the Government may avail itself of the technical assistance of the Office, the Committee requests the Government to provide a copy of the bill and to indicate any progress made in this respect.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Tunisia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1957)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2018. ***It requests the Government to respond in this respect. Recalling the serious allegations previously received from the ITUC concerning intimidation and threats made through anonymous calls to the Tunisian General Labour Union (UGTT) and its leaders, and in the absence of a reply on this matter, the Committee urges the***

Government to indicate without delay any investigation launched and any measures taken for the protection of the UGTT leaders so that the trade union can conduct its activities without any obstacles.

Articles 2 and 3 of the Convention. Legislative amendments. In its previous comments, the Committee noted the Government's indication that it was exploring the possibility of bringing certain provisions of the Labour Code into conformity with the Convention, as requested by the Committee. In this regard, the Committee notes with **regret** that the Government essentially provides explanations already supplied in its previous reports in response to the recommendations to make amendments. **The Committee is therefore bound to reiterate its recommendations and urges the Government to take all the necessary steps in this regard to give full effect to the Convention.**

Right of workers, without distinction whatsoever, to establish and join organizations. The Committee previously requested the Government to take the necessary measures to amend section 242 of the Labour Code, which provides that minors aged 16 years and over may belong to trade unions, if there is no opposition from their parent or guardian. The Committee notes that the Government once again reiterates that the protection put in place is only prompted by legal considerations relating to the exercise of authority by the parent or guardian, in accordance with section 93 bis of the Code of Obligations and Contracts. The Government reiterates that section 242 of the Labour Code has not been challenged by the representative organization of workers. The Committee is bound to recall once again that any distinction involving parental consent with regard to trade union membership when minors have attained the age of employment is contrary to *Article 2* of the Convention. **The Committee therefore once again requests the Government to take the necessary measures to amend section 242 of the Labour Code to ensure that minors who have reached the statutory minimum age for admission to employment (16 years under section 53 of the Labour Code) are able to exercise their trade union rights without authorization from their parent or guardian.**

Right of organizations to elect their representatives in full freedom. The Committee previously requested the Government to take the necessary measures to amend section 251 of the Labour Code so as to guarantee the right of workers' organizations to elect their representatives in full freedom, including from among foreign workers at least after a reasonable period of residence in the country. It notes the Government's reiteration that this is by no means a restriction on the right to organize of foreign nationals, who may freely join trade unions and exercise all the related rights. The Government nevertheless confirms that foreign nationals may not hold office in trade unions. **The Committee is bound to recall that, in accordance with Article 3 of the Convention, national legislation must allow foreign workers access to the functions of trade union leadership, at least after a reasonable period of residence in the host country, and it once again requests the Government to take the necessary steps to amend section 251 of the Labour Code as indicated above.**

Right of workers' organizations to organize their activities and formulate their programmes. The Committee previously asked the Government to amend sections 376 bis(2), 376 ter, 381 ter, 387 and 388 of the Labour Code. The Committee notes the Government's reiteration that the provisions in question are intended to allow employers to be informed of strikes and to engage in conciliation procedures with a view to preventing the dispute, and that the penalties set forth seek to avoid any anarchical recourse to strike action, which might jeopardize the future of the enterprise, the social climate or the interests of the country. As regards the penalties to which strikers are liable in the event of an illegal strike, the Government indicates that it is for the court to assess the seriousness of the offences committed and that it has full discretion to hand down a simple fine instead of a prison sentence. **The Committee requests the Government to review these provisions in consultation with the social partners concerned with a view to their possible amendment and to provide information on any measures taken in this regard.**

With regard to section 376 bis(2) of the Labour Code, the Government specifies that during the consultations conducted in 1994 and 1996 on the Labour Code reform, the representative organizations of employers and workers indicated that they wished to maintain this provision which, in their opinion, would allow the umbrella organization to always be informed prior to any strike or lockout, with a view to a more effective settlement of the dispute. The Government adds that the first-level trade unions often insist on the intervention of an umbrella organization to consolidate the exercise of the right to strike. In this regard, the Committee considers it useful to recall that the requirement to obtain the approval of a higher-level trade union organization prior to a strike would not in itself constitute a restriction on the freedom of the trade unions concerned to organize their activities if this requirement was the result of the free choice of the trade unions concerned, for example if it was set out in the constitution of the umbrella organization to which these trade unions freely adhered. However, the Committee is of the opinion that the existence of such a requirement in the national legislation, as in the present case, constitutes a violation of *Article 3* of the Convention. **The Committee therefore urges the Government to take the necessary steps to amend section 376 bis(2) of the Labour Code to bring it into line with the principle recalled above.**

With regard to its previous comments on section 381 ter of the Labour Code, the Committee notes the Government's reply indicating that the definition of essential services contained in this section, which takes up that of the ILO supervisory bodies, and the consensual approach used to determine minimum services with the social partners, has always made it possible to avoid the recourse to arbitration that is provided for. **The Committee once again requests the Government to indicate whether the decree provided for by this section of the Labour Code has been adopted.**

Right of workers' organizations to organize their activities and formulate their programmes without interference from the public authorities. The Committee notes the adoption of Act No. 2017-54 of 24 July 2017 establishing the

National Council for Social Dialogue and its mandate and mode of operation. The Committee also notes the Government's indication that, in order to facilitate the nomination of the members of the Council, the Ministry of Labour is taking steps towards adopting a decree establishing criteria for trade union representativeness at the national level. These criteria include: (i) the number of union members up to the end of 2017; (ii) the date of the last electoral congress; (iii) the sectoral structures and their nature; and (iv) the local and regional structures. The Government adds that it will inform the Office of the adoption of this decree, which will make it possible to designate the most representative organization at the national level which will be represented within the National Council for Social Dialogue. While noting this tangible progress towards determining criteria for trade union representativeness which it has been requesting the Government to do for a number of years, the Committee nevertheless emphasizes that its comments also emphasized the need for the Government to engage in inclusive tripartite consultations in this regard, namely in a context which encompasses all the organizations concerned by this issue. The Committee also notes that, under section 8 of Act No. 2017-54, the general assembly of the Council is composed of an equal number of representatives from the Government, the most representative workers' and employers' organizations in both the agricultural and non-agricultural sectors. The Committee understands this to mean that social partnerships will involve most representative trade unions and organizations of employers in the country, according to the results of elections to be held on the basis of the criteria for representativeness adopted in the government decree. ***The Committee requests the Government to provide details of any new developments in this regard, to indicate the tripartite consultations held regarding the criteria for representativeness, to send a copy of the government decree when it has been adopted, and to provide information, if applicable, on the composition of the National Council for Social Dialogue.***

Turkey

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1993)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2017 and 1 September 2018 as well as the observations of the Confederation of Progressive Trade Unions of Turkey (DİSK) and the Confederation of Public Employees Trade Unions (KESK) attached to them and the Government's reply thereto. The Committee also notes the observations of the Turkish Confederation of Employer Associations (TİSK) transmitted by the International Organisation of Employers (IOE) received on 1 September 2018 as well as the observations of Education International (EI) and the Education and Science Workers' Union of Turkey (EGİTİM SEN) received on 1 October 2018 and the Government's reply thereto. Further, the Committee notes the observations of the TİSK and the Confederation of Turkish Trade Unions (TÜRK-İŞ) communicated with the Government's report. The observations of TÜRK-İŞ allege that workers employed temporarily via private employment agencies cannot enjoy trade union rights as they often change industry and unionization in Turkey is industry-based. They also refer to allegations of pressure exercised on workers, particularly in public sector workplaces, to join unions designated by the employer. ***The Committee requests the Government to provide its comments in this respect.***

Civil liberties. The Committee recalls that for a number of years it has been commenting upon the situation of civil liberties in Turkey. It notes the observations of the ITUC, KESK and DİSK, alleging the prohibition of many demonstrations and press statements of the DİSK and KESK and their affiliated unions, and numerous arrests of union members and officials, as well as withdrawal of passports of the dismissed KESK executives. The Committee notes the Government's general reply to the alleged oppression of certain unions and their members, indicating that the examples cited mostly concerned the situations where the requirements of the state of emergency were ignored or disrespected persistently; or where unlawful strike action was called for; or open-air activities were conducted in violation of Law No. 2911; or where disciplinary procedures were applied to civil servants involved in politics in violation of their status. The Government finally indicates domestic administrative or judicial ways of remedy are available against all acts of the administration. ***The Committee requests the Government once again to provide information on the measures taken to ensure a climate free from violence, pressure or threats of any kind so that workers and employers can fully and freely exercise their rights under the Convention. In this regard, the Committee requests the Government to indicate whether the aforementioned administrative or judicial remedial channels have been invoked by union members or civil servants, and with what results.***

Article 2 of the Convention. *Right of workers, without distinction whatsoever, to establish and join organizations.* In its previous comments, the Committee had noted that section 15 of Act No. 4688, as amended in 2012, excludes senior public employees, magistrates and prison guards from the right to organize. The Committee notes the Government's indication in reply to the 2015 KESK observations that in a judgment dated 30 September 2015, the Constitutional Court repealed the restriction laid out in section 15(a) of Act No. 4688, thus allowing the personnel of the Administrative Organization of Turkish Grand National Assembly to unionize. The Government further adds that the restrictions under section 15 of the Act are limited to those public services where disruption cannot be compensated such as security, justice and high-level civil servants. The Committee notes the observations of the KESK which, while welcoming the Constitutional Court decisions of April 2013 and January 2014 that abolished certain restrictions on the right of public servants to organize, denounce the remaining restrictions that allegedly affect one sixth of public servants. ***Recalling that***

the only exceptions from the application of the Convention pertain to the armed forces and the police, the Committee once again requests the Government to take the necessary measures to review section 15 of Act No. 4688 as amended with a view to ensuring to all public servants the right to form and join organizations of their own choosing.

Article 3. Right of workers' organizations to organize their activities and formulate their programmes. The Committee recalls that in its previous comments it had noted that section 63(1) of Act No. 6356 provides that a lawful strike or lockout that has been called or commenced may be suspended by the Council of Ministers for 60 days with a decree if it is prejudicial to public health or national security and that if an agreement is not reached during the suspension period, the dispute will be submitted to compulsory arbitration. For a number of years, the Committee, along with the Committee on Freedom of Association (CFA), has been requesting the Government to ensure that section 63 of Act No. 6356 is not applied in a manner so as to infringe on the right of workers' organizations to organize their activities free from government interference. The Committee notes that in a decision dated 22 October 2014, the Constitutional Court ruled that the prohibition of strikes and lockouts in banking services and municipal transport services under section 62(1) is unconstitutional. However, the Committee also notes that in its last examination of Case No. 3021, the CFA has noted that pursuant to a recent Decree with power of law (KHK) No. 678, the Council of Ministers can postpone strikes in local transportation companies and banking institutions for 60 days. On this occasion, the CFA had invited the Government to send detailed information on the application of the Decree No. 678 to the Committee of Experts, having referred the legislative aspects of the matter to this Committee (see 382nd CFA Report, June 2017, paragraph 144). The Committee notes in this regard the DİSK 2018 observations, indicating that KHK No. 678 allows metropolitan municipalities to postpone strikes in urban public transportation and banking services and alleging the suspension, under section 63, of five strikes in 2017, during the state of emergency. The Committee notes the Government's indication that these strikes which were to take place in energy, glass, steel, pharmaceutical and banking industries, covering 24,000 workers were considered to be a threat to national security, public health and economic and financial stability. The Government further indicates that the disputes in the steel and banking industries were finally submitted to compulsory arbitration and in all the other cases an agreement was reached between the parties. The Government finally indicates that apart from these five cases there was no limitation to the right to strike during the state of emergency and that workers in 20 working places went on strike. The Committee notes with **concern** that shortly after the ruling of the Constitutional Court lifted the ban on strikes in urban transportation and banking sectors, a decree gave the power to metropolitan municipalities to ban strikes in those sectors. The Committee further notes with **concern** that in 2017 five strikes were suspended including in the glass sector on the grounds of threat to national security, while in 2015 the Turkish Constitutional Court had found a strike suspension in the same sector unconstitutional. It recalls that the right to strike may be restricted or banned only with regard to public servants exercising authority in the name of the State, in essential services in the strict sense of the term, and in situations of acute national or local crisis, for a limited period of time and to the extent necessary to meet the requirements of the situation. ***Recalling the Constitutional Court ruling that strike suspensions in these sectors were unconstitutional, the Committee requests the Government to take into consideration the above principles in the application of section 63 of Act No. 6356 and KHK No. 678. It further requests the Government to provide a copy of KHK No. 678.***

The Committee notes the ITUC allegation that Decree No. 5 adopted in July 2018 provides that an institution directly accountable to the Office of the President – the State Supervisory Council (DDK) – has been vested with the authority to investigate and audit trade unions, professional associations, foundations and associations at any given time. According to the ITUC, all documents and activities of trade unions may come under investigation without a court order and the DDK has discretion to remove or change the leadership of trade unions. The Committee notes the Government's reply on this matter, indicating that the DDK carries out its examinations with the purpose of ensuring the lawfulness, regular and efficient functioning and improvement of the administration and there is no intention to interfere with the internal functioning of the unions. The Government further adds that the power to dismiss or suspend union administrators is an arrangement intended only for public servants. ***Recalling that any law that gives the authorities extended powers of control of internal functioning of unions beyond the obligation to submit annual financial reports would be incompatible with the Convention, the Committee requests the Government to transmit a copy of Decree No. 5 in order to make a thorough examination of its conformity with the Convention in accordance with the above principle. The Committee also requests the Government to provide specific information on any investigations or audits undertaken pursuant to Decree No. 5 and their results, including any dismissal or suspension of trade union leaders.***

Article 4. Dissolution of trade unions. The Committee notes the observations of the DİSK, alleging that pursuant to the KHK No. 667, 19 trade unions affiliated with Cihan-Sen and Aksiyon-İş with memberships of around 22,000 and 30,000 were closed down for being in connection with the Fethullahist Terrorist Organization/Parallel State Structure (FETO/PSS). The DİSK further adds that a provision in the KHK provides that "trade unions, federations and confederations that are not specified in the annexed list, but found as in connection, communication or adherence to formations threatening national security or to terrorist organizations are banned upon the suggestion of the commission and approval of the minister concerned". The Committee wishes to recall that the dissolution and suspension of trade union organizations constitute extreme forms of interference by the authorities in the activities of organizations and should therefore be accompanied by all the necessary guarantees. This can only be ensured through a normal judicial procedure, which should also have the effect of a stay of execution. The Committee notes that after the attempted coup of 15 July 2016, Turkey was in a state of acute national crisis, and that in the meantime, a Commission of Inquiry has been

established that receives applications against the dissolution of trade unions by decree during the state of emergency and whose decisions are appealable before administrative courts of Ankara. The Committee has examined the role of this Commission in its comment on the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), in Turkey. ***The Committee firmly hopes that the Commission of Inquiry will be accessible to all the organizations that desire its review and that the Commission, and the administrative courts that review its decisions on appeal, will carefully examine the grounds for the dissolution of trade unions paying due consideration to the principles of freedom of association. It requests the Government to continue to provide information on the number of applications submitted by the dissolved organizations, and the outcome of their examination in the Commission. The Committee further requests the Government to provide information on the number and outcome of appeals against the negative decisions of the Commission concerning dissolved trade unions.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to supply full particulars to the Conference at its 108th Session and to reply in full to the present comments in 2019.]

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1952)

The Committee notes the observations of the International Trade Union Confederation (ITUC) and those of the Confederation of Progressive Trade Unions of Turkey (DİSK) and the Confederation of Public Employees Trade Unions (KESK) attached to it, received on 1 September 2018 and the Government's reply thereto. The Committee also notes the observations of the Turkish Confederation of Employer Associations (TİSK) transmitted by the International Organization of Employers (IOE), received on 1 September 2018, as well as the observations of Education International (EI) and the Education and Science Workers Union of Turkey (EGİTİM SEN) received on 1 October 2018 and the Government's reply thereto. Finally, the Committee notes the observations of the TİSK that refer to questions examined by the Committee and those of the Confederation of Turkish Trade Unions (TÜRK-İŞ) communicated with the Government's report. The observations of TÜRK-İŞ refer to allegations of partiality in the practice of the Supreme Arbitration Council and inadequate protection of union members against anti-union discrimination pending the authorization of an organization as collective bargaining agent. ***The Committee requests the Government to provide its comments in this respect.***

Scope of the Convention. In its previous comment, the Committee had noted that the prison staff like all other public servants are covered by the collective agreements concluded in the public service, even though under section 15 of the Act on Public Servants' Trade Unions and Collective Agreement (Act No. 4688) they do not enjoy the right to organize. The Committee had requested the Government to take the necessary measures, including legislative review, with a view to guaranteeing that the prison staff can be effectively represented by the organizations of their own choosing in negotiations which affect them. It notes with ***regret*** the Government's indication that there has been no new development in this regard and has therefore to reiterate its previous request. ***Recalling that all public servants not engaged in the administration of the State must enjoy the rights afforded by the Convention, the Committee again requests the Government to take the necessary measures including legislative review of section 15 of Act No. 4688 with a view to guaranteeing that the prison staff can be effectively represented by the organizations of their own choosing in negotiations which affect them.***

Articles 1 and 3 of the Convention. Adequate protection against anti-union discrimination. Following up on the recommendations of the June 2013 Committee on the Application of Standards of the International Labour Conference, the Committee had requested the Government to establish a system for collecting data on anti-union discrimination in both private and public sectors. The Committee notes the Government's indication that preparations for the establishment of the data collecting system are underway within the framework of the "Improving Social Dialogue in Working Life" project, currently in progress with the technical support of the Office. The Committee further notes the texts of the Council of State ruling and the Regulation on the Assignment of the Administrators of Educational Institutions submitted by the Government upon its request. ***The Committee requests the Government to continue providing information on the progress made in the establishment of the system for collecting data on anti-union discrimination in private and public sectors.***

Articles 1, 2 and 3. Massive dismissals in the public sector under the state of emergency decrees. In its previous comment, the Committee had urged the Government to ensure that the ad hoc Commission established to review the dismissals in the public sector under the state of emergency (hereafter, the Inquiry Commission) is accessible to all the dismissed trade union members who desire its review, and that it is endowed with the adequate capacity, resources and time to conduct the review process promptly, impartially and expeditiously. The Committee further requested the Government to ensure that the dismissed unionists do not bear alone the burden of proving that the dismissals were of an anti-union nature, by requiring the employers or the relevant authorities to prove that the decision to dismiss them was based on other grounds. In case it was established that the dismissal of trade unionists has been based on anti-union motives, the Committee expressed the firm expectation that they be reinstated in their posts with payment of unpaid wages and maintenance of acquired rights. The Committee notes the Government's indication that all the dismissed public servants, with the exception of the members of the judiciary who have to follow a different track, have the right to apply to the Inquiry Commission for a review of their dismissals. With regard to the capacity and resources of the Commission, the

Committee notes the Government's indication that the Inquiry Commission's period of office can be extended until its review of all applications submitted is completed. The Government further indicates that in addition to its 7 members, the Commission employs a total of 250 personnel, 80 of whom are judges, experts and inspectors employed as rapporteurs. With regard to the process of application and review, the Government indicates that a data processing infrastructure for the application process has been established where all information concerning natural and legal applicants is recorded and electronic applications are received 24 hours a day. A website has also been created where applicants can follow-up on their application. In case of acceptance of application, the decision is notified to the public institution where the applicant was last employed for their reinstatement. The applicant's social and financial dues shall be paid for the period of dismissal until the date they are reinstated. In case of a negative decision, the applicant can have recourse to the competent administrative courts in Ankara. With regard to the burden of proof, the Government indicates that the Commission demands from the relevant public institutions to submit the documents and information showing the applicant's membership, affiliation or connection to a terrorist organization. If the relevant public institutions provide no such document and information and no investigation or prosecution exists about the applicant, then the Commission accepts the application for reinstatement. The Committee also notes the following statistics provided by the Government: as of 9 November 2018, the Commission had received 125,000 applications. The Commission started its decision-making process on 22 December 2017 and as of 9 November 2018 it had delivered 42,000 decisions, including 3,000 acceptances and 39,000 rejections. The Government finally indicates that the Commission makes individualized and reasoned decisions on approximately 1,200 applications per week through a rapid and at the same time thorough examination. The Committee notes that pursuant to the statistics communicated by the Government, only 7 per cent of the reinstatement applications received have been accepted. However, the Committee has no information as to the rate of acceptance/rejection of the applications submitted by dismissed union members or officials. In this regard the Committee notes the observation of EGİTİM SEN alleging that while the law decrees of the state of emergency (Kanun Hükmünde Kararname, hereafter KHK) dismissed 1,628 EGİTİM SEN members, as of end of September 2018 only 12 applications resulted in the countenance of the dismissed applicants.

In its previous comment, the Committee had also requested the Government to ensure that in the context of the prolongation of the state of emergency no workers will be dismissed by reason of union membership or because of participation in union activities. The Committee notes in this regard the Government's indication that the state of emergency ended on 18 July 2018, two years after the attempted coup. The Committee also notes the following observations of the ITUC, DİSK, KESK and EGİTİM SEN, updating and supplementing the allegations of anti-union dismissals and suspensions under the state of emergency: (i) as of May 2018, a total of 4,312 KESK members had been dismissed from office, including 138 dismissed pursuant to KHK No. 695 dated 24 December 2017, 4 dismissed pursuant to the KHK No. 697 dated 12 January 2018, and 102 dismissed pursuant to the decision of the Higher Disciplinary Board. The number of reinstated KESK members in the same period amounted to 94; (ii) a group of 18 members of the Executive Committee of KESK and at least 330 of its representatives serving at local branches, disciplinary boards and audits were among the dismissed; (iii) massive suspension occurred in some cities through which 11,329 KESK members were suspended from their offices since 20 July 2016 and, in late 2017, there remained about 240 suspended KESK members; (iv) nearly 400 "Academics for Peace" the majority of whom were members of EGİTİM SEN and SES (both KESK affiliates) and who had signed a declaration calling for an end to fighting in East and Southeast Anatolia were expelled from university under the state of emergency; and (v) only 50 of the 1,959 DİSK Genel-İş members dismissed through KHKs returned to their jobs and the contracts of 28 members remained suspended. With regard to the grounds of the dismissals, the Committee notes the Government's emphasis that the dismissals took place on the grounds of membership, affiliation or connection to the terrorist organizations and in no way were they related to or based on legitimate trade union membership, status or activity of the persons concerned. The Committee notes however the observations of KESK and EGİTİM SEN, alleging that the Government uses the terms "terrorist activity" or "terrorism propaganda" to label all political opposition groups and their activities. The Committee further notes the KESK's allegation that as a result of application of very broad and vague criteria, allowing for the dismissal of public servants who were "considered" to have connections with illegal groups and entities, as of May 2018, 4,218 KESK members who had been subjected to threats and pressure from the Gulenist Structure were dismissed from office. The Committee notes in this regard the Government's indication that no one has immunity from prosecution for illegal activities and all trade unions and their members must respect the law of the land.

The Committee further notes the observation of KESK and EGİTİM SEN alleging that the political power targeted and punished certain trade unions by means of state of emergency and this situation continues despite the end of state of emergency as the public employer supports the pro-government unions while exerting pressure on oppositional trade unions. The Committee recalls in this regard that in its previous comment, it had noted the allegation that EGİTİM SEN and the DİSK members were targeted for suspension and dismissal because of their membership in unions affiliated to their confederations (KESK and DİSK) and the EGİTİM SEN allegation that administrators of many public institutions reported false charges against their members and officials which would lead to their dismissal and suspension, so as to weaken their union to the advantage of the so-called "partisan" unions. In this regard the Committee had urged the Government to take the necessary measures to prevent and remedy any eventual abuse of the state of emergency to interfere in trade union activities and functioning and to provide information on the measures taken. The Committee notes with *regret* that the Government has not responded to this request and the relevant observations of the trade unions.

The Committee notes that while the Government indicates that the dismissals were merely grounded on illegal activity of the targeted employees, the observations of the workers organizations indicate that the criteria of “connection to terrorist organizations” was too broadly applied and used to target members of unions who shared political affinities with the opposition, with a view to strengthening the position of the pro-government unions in the public sector. While the Committee is not in a position to verify these allegations, it considers that the protection against anti-union discrimination afforded to workers by the Convention remains valid in all political circumstances. Union members must be protected against dismissals merely based on the political affinities of their organizations, in particular during a state of emergency, as long as they act in conformity with existing laws. Furthermore, it considers that in the public sector, dismissals that would aim at weakening unions close to the political opposition to the benefit of pro-government unions would amount to acts of interference aimed at promoting workers’ organizations under the domination of the employer and would violate both *Articles 1 and 2* of the Convention. The Committee firmly hopes that the Inquiry Commission that has the necessary means to examine the relevant facts, and the Ankara administrative courts that are competent to examine appeals against the decisions of the Commission will pay due consideration to these points. ***Taking due note of the information submitted to it on the dismissals of trade union members and officials under the state of emergency and the functioning of the Inquiry Commission, the Committee expresses its deep concern at the situation as it has developed given the high number of suspensions and dismissals that still affect trade union officials and members. The Committee firmly hopes that the Commission and the Ankara Administrative Courts that review its decisions will carefully examine the grounds for the dismissal of trade union members and officials in the public sector and that they will reinstate any trade unionist applicant dismissed for anti-union or interference motives. It requests the Government to continue providing information on the functioning of the Commission, and in particular, to indicate the number of applications received from trade union members and officials, and the outcome of their examination in the Commission. The Committee further requests the Government to provide information on the number and outcome of appeals against the negative decisions of the Commission concerning trade union members and officials.***

Article 1. Anti-union discrimination in the course of employment. The Committee notes the observations of KESK and EGİTİM SEN, alleging that hundreds of their members and affiliates, mostly in the education sector, were transferred against their will from their workplaces in 2016 (at least 122 transfers, mainly for participation in trade union activities and events) and in 2017 (1,267 transfers, 1,190 of whom from the education sector). The unions’ observations refer in detail to 116 cases where union members and officials were subjected to disciplinary investigation and forced transfers, sometimes combined with demotions, as a result of participation in various union activities, including press conferences, protests or strikes organized in reaction to the Ankara bombing of 10 October 2015 or in relation to comments published in the social media. The Committee notes the KESK’s indication that after the unions took some initiatives and had dialogue with authorities to solve the issue some of the transferred union members were sent to workplaces close to their original workplaces and very few of them who had dependents with special needs were sent back to their original workplaces. However, according to KESK, 14 public officers’ relocation was not revoked despite their having dependents with special needs. The Committee further notes the observations of KESK alleging that the so-called social equilibrium compensation agreements concluded pursuant to section 32 of Act No. 4688 contain provisions that discriminate against members of minority unions as they impose higher fees on them and make the distribution of benefits dependent on the clear disciplinary record of the employee. The KESK refers in this regard to agreements concluded in Gaziantep and Kocaeli, where Bem-Bir-Sen, an affiliate of the allegedly pro-government MEMUR SEN confederation represents the majority, and TÜM BEL SEN, a KESK affiliate, is the minority union. The KESK further indicates that a number of affected employees have challenged the discriminatory provisions in court and the cases are still pending. The Committee notes the Government’s general reply to the alleged oppression of certain unions and their members, indicating that the examples cited mostly concerned the situations where the requirements of the state of emergency were ignored or disrespected persistently; or where unlawful strike action was called for; or open air activities were conducted in violation of Law No. 2911; or where disciplinary procedures were applied to civil servants involved in politics in violation of their status. The Government finally indicates that domestic administrative or judicial ways of remedy are available against all acts of the administration. While the Committee notes that according to the observations the unions have had recourse to the authorities to resolve the issue with relative success it is bound to recall that pursuant to *Article 1(2)(b)* of the Convention, workers should be protected during employment from measures such as transfers and demotions that prejudice them by reason of union membership or participation in union activities and that participation in protests and strikes and press conferences constitute legitimate trade union activities. ***The Committee therefore requests the Government to take the necessary measures to prevent the occurrence of anti-union transfers and demotions in the future, and to ensure that if any anti-union discriminatory measures still remain in force, they are revoked immediately. It also requests the Government to reply to the KESK allegation with regard to the inclusion of discriminatory clauses in certain social equilibrium compensation agreements.***

Article 4. Promotion of collective bargaining. Cross-sector bargaining. In its previous comments, the Committee had requested the Government to review the impact of section 34 of the Act on Trade Unions and Collective Bargaining Agreements (Act No. 6356) which provided that a collective work agreement may cover one or more than one workplace in the same branch of activity and to consider its amendment so as to ensure that it does not restrict the possibility for the parties to engage in cross-sector regional or national agreements. The Committee notes that, according to the indications of the Government and the TİSK, the existing multi-level system of collective bargaining allowing for

workplace level, enterprise level and group level collective agreements as well as framework agreements at the branch level is a product of a long and well-established industrial relations system in Turkey and that it does not seem that social partners feel a need for change in this regard. Furthermore, the Committee notes that, in practice, cross-sector bargaining is conducted in public enterprises, resulting in the conclusion of “public collective labour agreement framework protocols”. However, the Committee notes that pursuant to section 34 of Act No. 6356, cross-sector bargaining is not conducted and does not seem possible in the private sector. ***Taking due note of the information provided by the Government and the TİSK, and in view of the principle that it should be left to the parties to determine the level of bargaining, the Committee requests the Government to consider, in consultation with the social partners, the amendment of section 34 of Act No. 6356 in a manner so as to ensure that it does not restrict the possibility of the parties in the private sector to engage in cross-sector regional or national agreements should they so desire. It requests the Government to provide information on the steps taken in this regard.***

Requirements for becoming a bargaining agent. The Committee recalls that in its previous comments, it had noted that section 41(1) of Act No. 6356 initially set out the following requirement for becoming a collective bargaining agent: the union should represent at least 1 per cent (progressively, 3 per cent) of the workers engaged in a given branch of activities and more than 50 per cent of workers employed in the workplace and 40 per cent of workers of the enterprise to be covered by the collective agreement. It further recalls that the 3 per cent threshold was decreased to 1 per cent by Act No. 6552 of 10 September 2014 and that additionally, section 1 of Act No. 6356 stipulating that the 1 per cent membership threshold should be applied as 3 per cent with regard to trade unions that are not members of confederations participating in the Economic and Social Council was repealed by the Constitutional Court. Therefore the 3 per cent branch threshold was reduced to 1 per cent with regard to all trade unions. Furthermore, the Committee recalls that until 6 September 2018, legal exemptions from the branch threshold requirement were granted to three categories of previously authorized trade unions, so as to prevent the loss of their authorization for collective bargaining purposes. The Committee finally recalls that the Committee on Freedom of Association (CFA) has referred to it the legislative aspects of Case No. 3021 (see 382nd Report, June 2017, paragraph 144) concerning the impact of application of Act No. 6356 on the trade union movement and the national collective bargaining machinery as a whole. The Committee recalls that the CFA had considered that the branch of activity threshold, which is required by Act No. 6356, in addition to the workplace or enterprise threshold, to be able to conclude a collective labour agreement, is not conducive to harmonious industrial relations and does not promote collective bargaining in line with *Article 4* of the Convention, as it may ultimately result in the decrease in the number of workers covered by collective agreements in the country (see 373rd Report, October 2014, paragraph 529). The Committee notes that the Government does not indicate whether the exemption granted to the previously authorized unions have been extended beyond 6 September 2018. However, the Government indicates that if a consensus is reached between social partners on the branch threshold, the Ministry of Family, Labour and Social Services will give it due consideration in its work. According to the statistics provided in the Government report the rate of unionization in the private sector was 12.38 per cent in January 2018, and the rate of workers covered by collective agreements in 2017 was 14.4 per cent. ***Recalling the concerns that had been expressed by several workers’ organizations in relation to the perpetuation of the double threshold and noting that the exemption granted to the previously authorized unions was provisional, the Committee requests the Government to indicate whether the exemption has been extended beyond 6 September 2018, and the impact of the decision made in this regard on the capacity of previously authorized organizations to bargain collectively. It further requests the Government to continue reviewing the impact of the perpetuation of the branch threshold requirement on the trade union movement and the national collective bargaining machinery as a whole in full consultation with the social partners, and should it be confirmed that the perpetuation of the 1 per cent threshold has a negative impact on the coverage of the national collective bargaining machinery, revise the law with a view to its removal.***

With regard to the workplace and enterprise representativeness thresholds, the Committee had noted in its previous comments, section 42(3) of Act No. 6356 which provides that if it is determined that there exists no trade union which meets the conditions for authorization to bargain collectively, such information is notified to the party which made the application for the determination of competence; and section 45(1) which stipulates that an agreement concluded without an authorization document is null and void. The Committee had recalled in this respect that if no union meets the required threshold, collective bargaining rights should be granted to all unions, at least on behalf of their own members and had requested the Government to ensure that the legislation is amended to bring it into conformity with this principle. In this regard, the Committee notes the observation of the TİSK, emphasizing that the Turkish collective bargaining system contains the principle that there is only one agreement for one workplace or business for one period, and this principle was adopted taking into account the damage that clashes and disputes in the past did to working peace. The TİSK further expresses its clear disagreement with suggestions of authorizing more than one union to bargain collectively for the same period. Taking due note of this observation, the Committee also recalls also the previous observations of TURK-İS indicating that the 50 per cent workplace threshold is difficult to reach in a context where flexible labour systems are proliferating and supported by the legislation. With regard to the enterprise threshold, the Committee recalls TURK-İS’s indication that in cases where none of the trade unions organizing the workers in the same enterprise represents 40 per cent of the workers, or otherwise in the exceptional cases when two unions reach that same threshold, no union will be considered competent as a collective bargaining agent. While noting the TİSK’s concern with regard to work peace, the Committee notes that in view of the previous observations of TURK-İS, the current workplace and enterprise

representativeness thresholds for collective bargaining do not seem conducive to the development of collective bargaining in Turkey as they deny a representative union that fails to secure absolute majority at workplace or a 40 per cent majority at the enterprise the possibility of bargaining and so deprive the members of such a union from the right to determine the conditions of their employment through collective bargaining. The Committee once again recalls that under a system of the designation of an exclusive bargaining agent, if no union represents the required percentage of workers to be declared the exclusive bargaining agent, all the unions in the unit, jointly or separately, should be able to engage in collective bargaining, at least on behalf of their own members. The Committee highlights that by allowing for the joint bargaining of minority unions, the law could adopt an approach more favourable to the development of collective bargaining without compromising the “one agreement for one workplace or business” principle adopted by the Turkish legislation. Likewise, the Committee considers that when more than one union reaches the enterprise threshold, they should be able to jointly engage in voluntary collective bargaining, at least on behalf of their own members. ***In light of the above, the Committee requests the Government to take the necessary measures to amend the legislation, in consultation with the social partners, and to provide information in this respect.***

In its previous comment, the Committee had requested the Government to provide information on any use of sections 46(2), 47(2), 49(1), 51(1), 60(1) and (4), 61(3) and 63(3) that provide for a variety of situations in which the certificate of competence to bargain may be withdrawn by the authorities for a variety of reasons (the failure to call on the other party to start negotiations within 15 days of receiving the certificate of competence; the failure to attend the first collective bargaining meeting or failure to begin collective bargaining within 30 days from the date of the call; failure to notify a dispute to the relevant authority within six working days; failure to apply to the High Arbitration Board; failure to take a strike decision or to begin a strike in accordance with the legislative requirements; and failure to reach an agreement at the end of the term of strike postponement) and to continue to review their application with the social partners concerned with a view to their eventual amendment, favouring collective bargaining where the parties so desire. The Committee had also noted the TISK observation according to which in practice these provisions have no negative effect on the collective bargaining process as unions are very careful about the procedural rules and the Government’s indication that these provisions are intended to guarantee, speed up and shorten the bargaining procedure. The Committee notes with ***regret*** that the Government has not provided any information in this regard. ***The Committee again requests the Government to review the application of these provisions with the social partners concerned on a continuous basis and to provide information on any use of them.***

Articles 4 and 6. Collective bargaining rights of public servants not engaged in the administration of the State. Material scope of collective bargaining. In its previous comment, the Committee had noted that section 28 of Act No. 4688 as amended in 2012 – restricts the scope of collective agreements to “social and financial rights” only, thereby excluding issues such as working time, promotion and career as well as disciplinary sanctions. The Committee had also noted the Government’s indication in this regard that the 2012 amendments of section 28 were meant to give collective bargaining a significantly wider role in determining the economic and social rights of public servants. The Government adds, however, that when the bargaining parties agree to a need for legislative change, collective agreement requires work for such change to be carried out, since the status of public servants is regulated by law. The Committee notes that in its latest report the Government indicates that the demands of the unions and their confederations that do not fall within the category of financial and social rights are received and considered at the other, more appropriate platforms established beside collective bargaining. Noting the Government’s indication, the Committee once again recalls that public servants that are not engaged in the administration of the State should enjoy the guarantees of the Convention and therefore be able to negotiate collectively their conditions of employment and that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention. The Committee wishes to further recall however, that the Convention is compatible with systems requiring parliamentary approval of certain labour conditions or financial clauses of collective agreements concerning the public sector, as long as the authorities respect the agreement adopted. ***Bearing in mind the compatibility with the Convention of the special bargaining modalities in the public sector as mentioned above, the Committee again requests the Government to take the necessary measures to ensure the removal of restrictions on matters subject to collective bargaining so that the material scope of collective bargaining rights of public servants not engaged in the administration of the State is in full conformity with the Convention.***

Collective bargaining in the public sector. Participation of most representative branch unions. In its previous comment, the Committee had noted that pursuant to section 29 of Act No. 4688, the Public Employers’ Delegation (PED) and Public Servants’ Unions Delegation (PSUD) are parties to the Collective Agreements concluded in the public service. The proposals for the general section of the Collective Agreement are prepared by the confederation members of the PSUD and the proposals for collective agreements in each service branch are made by the relevant branch trade union representative member of the PSUD. The Committee had also noted the observation of Türkiye KAMU-SEN in this regard, indicating that many of the proposals of authorized unions in the branch are accepted as proposals relating to the general section of the agreement meaning that they should be presented by a confederation pursuant to the provisions of section 29 and that this mechanism deprives the branch unions from the capacity to directly exercise their right to make proposals. Noting that although the most representative unions in the branch are represented in the PSUD and take part in bargaining within branch-specific technical committees, their role within the PSUD is restricted in that they are not entitled to make proposals for collective agreements, in particular where their demands are qualified as general or related to more than one service branch, the Committee had requested the Government to ensure that these unions can make

general proposals. The Committee notes the Government's indication in this regard that it is only natural that the proposals concerning all public servants are tabled by members representing the confederations in the PSUD that are the higher level organizations of the unions and that during the four collective bargaining rounds that took place since the inception of the system in 2012, public servants' unions participated in the negotiations as members of the PSUD and could in this way influence the general proposals. The Committee notes that the Government's indications seem to confirm that within PSUD only confederations can make proposals relating to issues relating to more than one branch. ***Considering that where joint bodies within which collective agreements must be concluded are set up, and the conditions imposed by law for participation in these bodies are such as to prevent a trade union which would be the most representative of its branch of activity from being associated in the work of the said bodies, the principles of the Convention are impaired, the Committee again requests the Government to ensure that Act No. 4688 and its application enable the most representative unions in each branch to make proposals for collective agreements including on issues that may concern more than one service branch, as regards public servants not engaged in the administration of the State.***

Collective bargaining in the public sector. Public Employee Arbitration Board. In its previous comment, the Committee had noted that pursuant to sections 29, 33 and 34 of Act No. 4688, in case of failure of negotiations in the public sector, the chair of the PED (the Minister of Labour) on behalf of public administration and the chair of the PSUD (currently head of MEMUR SEN confederation) on behalf of public employees, can apply to the Public Employees' Arbitration Board. The Board decisions will be final and will have the same effect and force as the collective agreement. The Committee had requested the Government to reply to the KESK's observation that the majority of the Public Employee Arbitration Board are designated by the employers and the council of Ministers which creates doubts about the independence of this body. It notes the Government's indication in this regard that pursuant to the KHK No. 703 dated 2 July 2018, the President of the Republic has authority to designate one senior judge to chair the Board as well as four members from the Ministries and public institutions and one member from the academics working in a relevant field. On the other hand, four members of the board are designated directly by the three most representative confederations of public servants' unions, and one member is designated by the President of the Republic from among the academics proposed by the said confederations. The Government concludes that as the Board's 11 members consist of one judge as chair, who has judicial independence and cannot receive orders from the executive power, and ten members, five of which are elected by the public servants' organizations, it is a well-balanced institution. In view of the information provided by the Government, the Committee notes that pursuant to the recently adopted KHK No. 703, seven of the 11 members of the Board including the chair are designated by the President of the Republic. The Committee considers that this selection process can create doubts as to the independence and impartiality of the Board. ***The Committee therefore requests the Government to take the necessary measures for restructuring the membership of the Public Employee Arbitration Board or the method of appointment of its members so as to more clearly show its independence and impartiality and to win the confidence of the parties.***

Collective bargaining in public sector. Social equilibrium compensation agreements. In its previous comment, the Committee had noted that in the local administration services branch, negotiations between the direct employer (local administration) and the unions representing public servants were conducted for a long time prior to the 2012 amendments and had resulted in the conclusion of numerous collective agreements from which tens of thousands of workers were benefiting, while as a result of the application of amended section 32 of Act No. 4688 the so-called "social equilibrium compensation" agreements are not considered as collective agreements anymore. It had therefore requested the Government to indicate whether all matters dealt with previously in direct bargaining between the local administration and organizations representing the employees can still be covered through the centralized bargaining system established under the amended legislation; and whether and how the organizations representing employees of local administrations are able to take part in the negotiations under the new system. The Committee notes that the Government reiterates in this regard that the procedure for concluding a collective agreement for the local administration branch of service is the same as for the other branches, and a collective agreement for this branch should be concluded between the PED and the majority trade union in the branch. The Government further indicates that as the agreements on social equilibrium compensation are not collective agreements for the purpose of Act No. 4688, a different procedure is made possible for the local administrations willing and financially able to conclude such agreements that is described in section 32 of the Act. Pursuant to this provision municipalities and provincial special administrations may conclude agreements on social equilibrium compensation directly with the most representative public servants' union in the relevant municipality or administration. The Committee also notes the observations of KESK referring to agreements concluded in the municipalities of Gaziantep and Kocaeli pursuant to section 32 of Act No. 4688. The Committee therefore notes that the practice of direct negotiation and conclusion of social equilibrium compensation agreements at the local administration services continues within the framework established in section 32.

[The Government is asked to reply in full to the present comments in 2019.]

Uganda

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2005)

The Committee recalls that, in reply to the International Trade Union Confederation's observations of 2012 and 2013 relating to allegations of restrictions to freedom of assembly imposed by the Public Order Management Act 2013, the Government had indicated that the Act was applied so as to ensure that public gatherings take place in harmony and peace. The Committee recalls that the Act provides that organizers of public meetings, who fail to comply with the requirements of the Act (including time frames for giving notice of the meetings and time limits during which public meetings can take place), commit an act of disobedience of statutory duty which is punishable under the Penal Code with imprisonment. The Committee recalls that: (i) the right to organize public meetings and processions constitutes an important aspect of trade union rights; (ii) the authorities should resort to calling in the police in a strike situation or demonstration only if there is a genuine threat to public order; (iii) no penal sanction should be imposed on workers for having carried out a peaceful strike or demonstration; and (iv) the implementation of the Public Order Management Act should not impair the exercise of the rights enshrined in the Convention. The Committee had expressed its trust that the Government would ensure respect for these principles and, to that end, it had requested the Government to discuss with the social partners the application and impact of the Act 2013. The Committee *regrets* that the Government provides no information in this regard. ***It therefore once again requests the Government to discuss with the social partners the application and impact of the Public Order Management Act, and to provide information on the outcome of the discussions.***

Articles 2 and 3 of the Convention. Legislative matters. In its previous comments, the Committee had requested the Government to take measures to amend or repeal the following provisions of the 2006 Labour Unions Act (LUA) and the 2006 Labour Disputes (Arbitration and Settlement) Act (LDASA):

- Section 18 of the LUA (process of registration of a labour union shall be completed within 90 days from the date of application). The Committee notes that the Government reiterates that that 90 days is the maximum duration anticipated for the whole process to be completed before a certificate is issued to the applicant. ***Recalling that registration procedures that are overly lengthy may constitute serious obstacles to the establishment of organizations, the Committee once again requests the Government to take the necessary measures to amend section 18 of the LUA so as to shorten the time frame for registration of a trade union.***
- Section 23(1) of the LUA (interdiction or suspension of union officers by the Registrar). The Committee notes that the Government reiterates that the intention of section 23(1) of the LUA is to remove the officer in question to allow investigations to take place and justice to prevail. The Committee recalls once again that any removal or suspension of trade union officers, which is not the result of an internal decision of the trade union, a vote by members, or normal judicial proceedings, seriously interferes with the right of trade unions to elect their representatives in full freedom, enshrined in *Article 3* of the Convention. Provisions which permit the suspension and removal of trade union officers by the administrative authorities are incompatible with the Convention. The Committee further recalls that only the conviction on account of offences, the nature of which is such as to prejudice the aptitude and integrity required to exercise trade union office may constitute grounds for disqualification from holding such office. ***The Committee therefore reiterates its request to the Government to take steps to amend section 23(1) of the LUA so as to ensure that the Registrar may only remove or suspend trade union officers after conclusion of the judicial proceedings and only for reasons in line with the principle cited above.***
- Section 31(1) of the LUA (eligibility condition of being employed in the relevant occupation). The Committee notes that the Government reiterates its intention to contact the trade unions so that they can express their views on this issue. ***The Committee once again requests the Government to take the necessary measures to amend section 31(1) of the LUA in conjunction with such consultations so as to introduce flexibility either by admitting as candidates for union office persons who have previously been employed in that occupation, or by exempting from that requirement a reasonable proportion of the officers of an organization.***
- Section 33 of the LUA (excessive regulation by the Registrar of an organization's annual general meeting; contravention subject to sanction under section 23(1)). The Committee notes that the Government reiterates its intention to discuss this matter with the trade unions so as to bring section 33 of the LUA into conformity with the Convention. ***The Committee requests the Government to provide information regarding the steps taken to repeal section 33 so as to guarantee the right of organizations to organize their administration.***
- Section 29(2) of the LDASA (responsibility for declaring a strike illegal lies with the Government). The Committee recalls that the Government has previously indicated that the responsibility for declaring a strike illegal lies with the Labour Officer, who is an officer of the Government, and that therefore any action by such officer is an action of the Government. The Committee *regrets* that the Government's report does not contain any information on the measures taken to amend section 29(2) of the LDASA. ***The Committee requests the Government to take the necessary steps***

to amend this provision so as to ensure that the responsibility for declaring a strike illegal does not lie with the Government, but with an independent body that has the confidence of the parties involved.

Concerning Schedule 2 of the LDASA (list of essential services), the Committee recalls that the Government had previously indicated that the harmonization of the list of essential services in the LDASA with that in the 2008 Public Service Act (Negotiating, Consultative and Disputes Settlement Machinery) was going to be undertaken by the new Labour Advisory Board, which was appointed in October 2015. *In the absence of any new information on this point, the Committee requests the Government to provide information on any progress made in this regard.*

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1963)

The Committee notes the Government's general reply to the observations made by the International Trade Union Confederation and the National Organization of Trade Unions of Uganda in 2014 and 2012 respectively. *The Committee requests the Government to provide its detailed comments on the alleged anti-union discrimination practices.*

Article 4 of the Convention. Promotion of collective bargaining. The Committee recalls its previous comments on the following provisions of the 2006 Labour Unions Act (LUA) and the Labour Disputes (Arbitration and Settlement) Act (LDASA):

- Section 7 of the LUA (lawful purposes for which trade union federations may be established, do not include collective bargaining). The Committee notes that the Government confirms that under the LUA, trade union federations do not have the right to engage in collective bargaining. *Recalling that the right to collective bargaining should also be granted to federations and confederations of trade unions, the Committee requests the Government to take the necessary measures to amend section 7 of the LUA so as to guarantee that trade union federations have the right to engage in collective bargaining. It requests the Government to inform it of all developments in this regard.*
- Sections 5(1) and (3) and 27 of the LDASA (referral of non-resolved disputes to compulsory arbitration by or at the request of any party). In its previous comments the Committee had requested the Government to take steps to amend these provisions so as to ensure that compulsory arbitration may only be imposed in the case of disputes in the public service involving public servants engaged in the administration of the State, or in essential services in the strict sense of the term (namely those services whose interruption would endanger the life, personal safety or health of the whole or part of the population), or in the case of acute national crisis. The Committee recalled in this regard that, with the exception of the above-mentioned cases, arbitration imposed by legislation, or at the request of only one of the parties involved in the dispute is contrary to the obligation to promote the full development and utilization of machinery for voluntary negotiation as enshrined in *Article 4* of the Convention. The Committee notes the Government's indication that consultations with the social partners are ongoing with respect to amendments to these sections. *The Committee hopes that in consultation with the social partners, the Government will take the necessary steps to amend these provisions so as to ensure that arbitration in situations other than those mentioned above can take place only at the request of both parties involved in the dispute. It requests the Government to inform it of any developments in this matter.*

Articles 4 and 6. Promotion of collective bargaining for public servants not engaged in the administration of the State. In its previous comments, the Committee requested the Government to ensure the effective application in practice of the collective bargaining rights accorded by the 2008 Public Service Act (Negotiating, Consultative and Disputes Settlement Machinery) in the public service at least with respect to all public servants and public employees not engaged in the administration of the State. It also requested the Government to supply a copy of the guidelines which were being formulated to assist ministries and local governments to form structures for collective bargaining at their level as well as to provide information on the number of collective agreements concluded in the public service, and the number of workers covered. The Committee notes that the Government acknowledges that the Public Service Negotiating and Consultative Council, established by the 2008 Public Service Act to facilitate consultations, dialogue, and negotiations between the Government and public service labour unions, has functioned poorly. It also indicates that it will communicate to the relevant Ministry the need to improve it. *The Committee once again requests the Government to ensure the effective application in practice of the collective bargaining rights accorded by law in the public service at least with respect to all public servants and public employees not engaged in the administration of the State. It also requests the Government to: (i) supply a copy of the guidelines issued in this respect and to inform it of the measures taken to improve the functioning of the Public Service Negotiating and Consultative Council; and (ii) provide information on the number of collective agreements concluded and in force in the public service, and the number of workers covered.*

Ukraine

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1956)

The Committee notes the observations of the Confederation of Free Trade Unions (KVPU) received on 9 October 2017 and 31 August 2018, of the International Trade Union Confederation (ITUC) received on 1 September 2018, as well as of the Federation of Trade Unions of Ukraine (FPU) received on 11 October 2018. ***The Committee requests the Government to provide its comments on the numerous alleged violations of civil liberties and of the Convention in practice contained therein.***

Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee recalls that it had previously requested the Government to take the necessary measures to ensure the right of judges to establish organizations of their own choosing to further and defend the interests of their members. The Committee notes the Government's reiteration that by virtue of article 127 of the Constitution, professional judges cannot be members of trade unions. To remedy this situation and to ensure judges' right to organize, the Ministry of Social Policy addressed the President of the country in November 2014, as well as the Verkhovna Rada in June 2015, with a request to take into account the observations of the Committee and lift the constitutional restriction. The Presidential Administration sent a corresponding proposal to the members of the working group on justice and related institutions of the Constitutional Commission for consideration. The Committee ***regrets*** the absence of further developments in this regard. ***It requests the Government to continue taking the necessary steps in order to ensure the right of judges to establish organizations of their own choosing to further and defend the interests of their members and to inform of all progress made in this regard.***

Article 3. Right to organize activities and formulate their programmes in full freedom. With regard to the Committee's previous request to amend section 19 of the Law on the procedure for settlement of collective labour disputes, which provides that a decision to call a strike has to be supported by a majority of the workers or two-thirds of the delegates of a conference, the Committee recalls that the Government's initial indication was that this requirement would be lowered in the draft Labour Code. Subsequently, the Committee noted that the draft Labour Code did not contain provisions dealing with the manner in which the decisions to declare a strike were taken, and strikes carried out. The Committee had therefore requested the Government to clarify which legal provision will govern the exercise of the right to strike once the Labour Code is adopted. The Committee notes the Government's indication that the current version of the draft Labour Code refers to the relevant provision of the Law on the procedure for settlement of collective labour disputes and, as concerns the majority required to call a strike, to its section 19. The Committee once again recalls that if the national legislation requires a vote before a strike can be held, it should ensure that account is taken only of the votes cast and the majority is fixed at a reasonable level. ***The Committee therefore once again requests the Government to take the necessary measures to amend section 19 of the Law on the procedure for settlement of collective labour disputes accordingly and to indicate the progress achieved in this respect.***

The Committee had previously requested the Government to list specific categories of public servants whose right to strike is restricted or prohibited by the Law on Civil Service, pursuant to section 10(5) of which, civil servants are prohibited from exercising the right to strike. The Committee notes the detailed information provided by the Government on various categories of civil servants, which, however, does not indicate whether or not they can exercise the right to strike. ***Recalling that the right to strike in the public service may be restricted or prohibited only for public servants exercising authority in the name of the State, the Committee requests the Government to clarify which categories of civil servants exercise authority in the name of the State and whether some or all civil servants are prohibited from exercising the right to strike and to amend the Law accordingly.***

The Committee had previously noted that pursuant to section 293 of the Criminal Code, organized group actions that seriously disturb public order, or significantly disrupt operations of public transport, any enterprise, institution or organization and active participation therein, are punishable by a fine of up to 50 monthly minimum wages or imprisonment for a term of up to six months. The Committee notes the Government's general information about pretrial investigations into offences under section 293. ***The Committee once again requests the Government to provide information on the practical application of this section in respect of industrial actions.***

United Kingdom

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1949)

The Committee takes note of the observations of the Trades Union Congress (TUC) received on 31 August and 4 September 2018, and the Government's comments thereon, referring to the issues raised by the Committee below. ***The Committee notes with concern the TUC's allegation of cases of surveillance of trade unions and trade unionists by the police, to which the Government has not replied, and therefore requests the Government to provide comments in this regard.***

Article 3 of the Convention. Right of workers' organizations to organize their activities and formulate their programmes. In its previous comment, the Committee had requested the Government to provide information on the measures taken to facilitate electronic balloting in the context of the new requirements set out in the Trade Union Act 2016. The Committee notes the TUC's and the Government's indication that the latter commissioned a review which was published in 2017 and whose main recommendations are: (i) e-balloting for industrial action ballots would only be capable of retaining public confidence if it were seen to be as secure and reliable as the current postal approach, particularly, it would need to be able to meet the required standard set out in section 54 of the Employment Rights Act 2004, that is, to ensure that those entitled to vote have an opportunity to do so; (ii) a test of e-balloting on non-statutory ballots is necessary as preliminary step and that this would potentially be the basis for the Secretary of State to decide the matter; (iii) e-balloting should be introduced for selected non-statutory ballots across England, Scotland and Wales with the aim of evaluating, among other things, the operation and effectiveness of voter verification; and (iv) the providers of any systems used to trial e-balloting must be able to demonstrate that they are able to withstand cyber-attack/hacking from those who wish to cause disruption. While noting the TUC's allegation that to date the Government has not published a response to these recommendations, the Committee notes the Government's indication that before responding to the recommendations it must, according to section 4(4) of the Trade Union Act, consult relevant organizations, including professionals from expert associations to seek their advice and recommendations. The Government is currently assessing the best means of obtaining this advice which will enable it to take properly informed and transparent decision about the risks associated with electronic balloting, and therefore whether such a system should be rolled out. ***The Committee requests the Government to provide updated and detailed information on the developments in this regard.***

The Committee had previously requested the Government to review section 3 of the Trade Union Act with the social partners concerned and to take the necessary measures so that the requirement of support of 40 per cent of all workers for a strike ballot in important public services does not apply to education and transport services. The Committee notes that the TUC is concerned about the 40 per cent support threshold in the other four sectors to which it applies. The Committee recalls that it had previously observed that a number of the services set out in section 3 fall within the Committee's understanding of essential services in the strict sense of the term or provided by public servants exercising authority in the name of the State, in which restrictions on industrial action are permissible. The Committee had noted, however, that a restriction on education services in particular would touch upon the entire primary and secondary education sector, and a restriction on all transport services would have a similarly sweeping and overbroad effect, and the Committee considers that such restriction is likely to severely impede the right of these workers and their organizations to organize their activities in furtherance and defence of their occupational interests without interference. The Committee further notes the TUC's indication that the Government have made no serious attempt to amend section 3 of the Act. The Committee notes with *regret* that the Government reiterates its previous position on the need to maintain the 40 per cent threshold in education and transport services. The Government indicates that as the Trade Union Act balloting did not come into effect until 1 March 2017, it is, in any case, far too early for the Government to consider any amendments in this respect. The Committee recalls from its previous comments that a requirement of support of 40 per cent of all workers effectively means a requirement of 80 per cent voting support where only the 50 per cent participation quorum has been met. ***The Committee once again requests the Government to review section 3 of the Trade Union Act with the social partners concerned and take the necessary measures so that the requirement of support of 40 per cent of all workers for a strike ballot does not apply to education and transport services.***

In its previous comment, the Committee had noted the TUC's observations that the additional conditions for lawful picketing raise a number of concerns: the requirement to notify the police of the identity and contact details of activists may expose individuals to blacklisting; the union is automatically liable for any failure; and these requirements are discriminatory as they only affect pickets organized by trade unions but not those organized by other groups. Accordingly, it had requested the Government and the TUC to provide information on the impact of the application of this notification in practice, including any complaints that may have been made in relation to the handling of this information or its impact on lawful industrial action, and any information regarding the blacklisting of individuals engaged in lawful picketing. The Committee notes the Government's indication that where a picket supervisor's contact details are passed to the police, safeguards are in place in the way the information is handled and that the confidentiality of personal details is protected by the Human Rights Act 1998 and Data Protection 2018, which are in conformity with the European Convention on Human Rights. Furthermore, the Government affirms that complaints regarding data handling can be brought to the Independent Police Complaints' Commission, if the data was mishandled by the police, or to the Information Commissioner, who deals with complaints specific to data protection matters. ***Taking due note of this information, the Committee once again requests the Government to provide information on the application of this notification in practice, including any complaints that may have been made in relation to the handling of this information or its impact on lawful industrial action, and any information on the blacklisting of individuals engaged in lawful picketing.***

In its previous comment, the Committee had expressed its concern that the Trade Union Act appear to significantly expand the investigatory and enforcement powers of the Certification Officer, including in cases where no application has been made and had invited the Government to review the impact of the expanded role of the Certification Officer in sections 16–20 of the Act with the social partners concerned, with a view to ensuring that workers' and employers' organizations can effectively exercise their rights to organize their administration and activities and formulate their programmes without interference from the public authorities. The Committee notes the Government's reiteration that none

of the Certification Officer reforms affects the workers' freedom of association and their right to organize, to establish and to join a trade union, rather they enhance transparency for the benefit of union members and the wider public. The Committee notes, however, the TUC's allegation that no steps have been taken to respond to the Committees' invitation to review the powers of the Certification Officer with the social partners. ***The Committee invites once again the Government to review the impact of sections 16–20 of the Trade Union Act with the social partners concerned with a view to ensuring that workers' and employers' organizations can effectively exercise their rights to organize their administration and activities and formulate their programmes without interference from the public authorities. It requests the Government to provide information on the outcome of the consultations.***

The Committee is raising other matters in a request addressed directly to the Government.

Jersey

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

Article 3 of the Convention. Right of workers' organizations to organize their activities and formulate their programmes. In its previous comments, the Committee had requested the Government to provide information on any developments concerning the review of the Employment Relations Law (ERL) and codes of practice, in particular, the provisions regulating the exercise of the right to strike (right to secondary action and social and economic protests – see section 20(3) of the ERL and Code 2; picketing – Code 2; compulsory arbitration – sections 22 and 24 of the ERL and Code 3; essential services – Code 2; and conditions for protected industrial action and the application by the courts of sections 3 and 20(2) of the ERL and Code 3).

The Committee notes the Government's indication that the ERL continues to achieve its purpose in supporting a non-adversarial dispute resolution system having been developed following significant public consultation, and as demonstrated by Jersey's very good industrial relations record. The Government indicates that according to the Jersey Advisory and Conciliation Service (JACS), both workers' organizations and employers continue to find that the ERL and the codes of practice provide an effective framework in a format that is accessible and easily understood, the success of which had been demonstrated by parties actively pursuing early mediation to resolve matters and by the absence of industrial actions.

The Government further recalls that following a political decision to focus on the preparation of new legislation to protect against discrimination all efforts were concentrated on this issue. This legislation is now in force and was further complemented in 2018. While the Government is satisfied with the progress made in this respect, it regrets that it has not been possible to undertake a review of the ERL during this period.

The Committee notes the Government's indication that a review of the ERL is expected to be undertaken when resources allow for it, subject to the position of the new Minister for Social Security, appointed in June 2018. The Government assures that this legislative review will take into account the Committee's comments. ***In these circumstances, the Committee reiterates its request and trusts that the Government will soon be able to report progress concerning the review of the ERL and its codes of practice.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee had noted that pursuant to sections 77B and 77C of the Employment (Amendment No. 4) (Jersey) Law, 2009, while the Tribunal can issue an order of reinstatement in the post or a similar post, it does not have the power to compensate an employee for financial losses such as arrears of pay for the period between the dismissal and the order for reinstatement. The Committee had invited the Government to pursue dialogue with the social partners in order to ensure that in cases of anti-union dismissals, workers reinstated by order of the judicial authority would be granted full compensation for loss of pay.

The Committee notes that the Government states once again that: (i) since the Employment Law came into force in 2005 there have been no Tribunal complaints of anti-union dismissal, therefore no orders for reinstatement resulting from anti-union dismissal have been issued; and (ii) the review of the award-making powers of the Employment and Discrimination Tribunal could be envisaged in the future. The Committee reiterates that in cases of reinstatement following an anti-union dismissal, remedies for loss of wages for the period that elapses between dismissal and the reinstatement, as well as compensation for the prejudice suffered, with a view to ensuring that all of these measures taken together constitute a sufficiently dissuasive sanction, as "adequate protection" under *Article 1(1)* of the Convention. The Committee recalls that sanctions against acts of anti-union discrimination must be to compensate fully, both in financial and in occupational terms, the prejudice suffered (see 2012 General Survey on the fundamental Conventions, paragraph 193). ***The Committee therefore requests once again the Government to enter into dialogue with the social partners in order to ensure that in cases of anti-union dismissals, workers reinstated by order of a judicial decision may be granted full compensation for loss of pay. The Committee requests the Government to provide information of any developments in this regard.***

Article 2. Adequate protection against acts of interference. In its previous comments, the Committee had noted that there were no specific provisions protecting against acts of interference in the Employment (Jersey) Law (EL) or the Employment Relation Law (ERL), but that it was the Minister's intention via the ERL to prohibit employers from "buying out" employees' rights in respect of union activities by inducing employees not to join a workers' organization, or to relinquish membership of such an organization. While noting the Government's indications on the focus given for now to the preparation of a new legislation to provide protection against several grounds of discrimination, the Committee notes with *regret* that there have been no further developments to date with respect to the protection against acts of interference. ***The Committee therefore requests once again the Government to take, after consulting the social partners, the necessary measures to introduce provisions prohibiting acts of interference by employers or their organizations in the establishment, functioning or administration of workers' organizations and vice versa as well as provisions ensuring rapid procedures and sufficiently dissuasive sanctions against such acts. The Committee requests the Government to provide information of any developments in this regard.***

Article 4. Promotion of collective bargaining. Legislative matters. In its previous comments, the Committee had requested the Government to take the necessary action to amend Code of practice 1 with respect to the recognition of trade unions in order to guarantee the right to collective bargaining when no union represents the majority of employees in a bargaining unit. The Committee notes with *regret* the Government's indication that, to date, there have been no further developments in this respect. ***Recalling that the determination of the threshold of representativeness to designate an exclusive agent for the purpose of negotiating collective agreements applicable to all workers in a sector or establishment is compatible with the Convention in so far as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice, the Committee requests the Government to take, after consulting the social partners, the necessary measures to ensure that if no union reaches the required threshold to be recognized as a bargaining agent, unions should be given the possibility to negotiate, jointly or separately, at least on behalf of their own members. The Committee requests the Government to provide information of any developments in this regard.***

Promotion of collective bargaining in practice. ***The Committee requests the Government to provide information on the number of collective agreements concluded and in force in the country, the sectors concerned and the number of workers covered by these agreements.***

St Helena

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Article 4 of the Convention. Legislative measures to promote collective bargaining in the private sector. In its previous comment, the Committee has expressed concern over the fact that there are no collective agreements in force and requested the Government to take any necessary measures to encourage and promote the full development and utilization of collective bargaining and to provide information in this regard.

The Committee notes the Government's indication that: (i) the lack of collective agreements is a reflection of the size and nature of the private sector employers on the island, and the low level of unemployment on the island, which entails that individual workers, particularly in small businesses, have more bargaining power than in other territories where they can easily be replaced; (ii) the working age population of St Helena is 2,851 people and there are only seven private sector employers with significant numbers of staff, and the remaining workers are employed in small businesses; (iii) there are no legislative or procedural obstacles to the regulation of terms and conditions of employment through collective agreements, in accordance with *Article 4* of the Convention, as the Employment Rights Ordinance permits employees' groups to be formed and the Equality and Human Rights Commission provides assistance to any group of employees who may wish to pursue collective negotiations. ***Noting that the Employment Rights Ordinance does not contain specific provisions regulating collective bargaining and recalling that, pursuant to Article 4, measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of collective bargaining, the Committee requests the Government to take legislative measures to promote collective bargaining in the private sector. The Committee requests the Government to provide information on any developments in this respect, hoping that it will be able to note tangible progress in the near future.***

Articles 4 and 6. Collective bargaining in the public sector. The Committee takes due note that the Government indicates that an Employee Representative Committee has been established, which recognizes the right to collective bargaining to public employees. ***Recalling that, pursuant to Articles 4 and 6, the workers' organizations representing the civil servants not engaged in the administration of the State should be able to negotiate the conditions of employment of their members, the Committee requests the Government to provide information on the collective bargaining processes taking place through the Employee Representative Committee and on its related outcomes.***

Uruguay

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1954)

The Committee notes the joint observations of the International Organisation of Employers (IOE), the Chamber of Industries of Uruguay (CIU) and the National Chamber of Commerce and Services of Uruguay (CNCS) received on 31 August 2016 and 31 August 2018 on issues dealt with in this observation. The Committee notes additional joint observations of the IOE, CIU and CNCS received on 28 November 2018. ***The Committee requests the Government to provide its comments thereon.***

Article 3 of the Convention. Workplace occupation and the right of the management of the enterprise to enter the workplace in the context of a labour dispute. In its previous comments, the Committee welcomed the signing in March 2015 of a tripartite agreement in which the Government and the social partners undertook to engage in constructive dialogue on the issues raised in the Report of the Committee on Freedom of Association in Case No. 2699. The Committee expressed the firm hope that the agreement would mark the beginning of a fruitful tripartite dialogue process in which, taking into account the comments of the Committee on Freedom of Association and this Committee on the issue of workplace occupation, concrete measures would be taken to bring law and practice into full conformity with the Convention.

The Committee notes that, in their joint observations, the IOE, CIU and CNCS state that: (i) in the context of tripartite discussions following the 2015 agreement, the Government submitted in 2016 and 2017 to the tripartite discussion two legislative proposals, the content of which regarding occupation in the workplace does not comply with the comments and recommendations of the ILO supervisory bodies; (ii) the adoption in March 2017 of Decree No. 76/017 on the right to free movement on streets, roads and highways even further removes the Government from fulfilling its commitments, as strikes are excluded from the scope of application of the Decree; (iii) there are no pickets or workplace occupations that are carried out peacefully since the vast majority of these measures are carried out under threats and/or physical violence and that all these acts involve, at least, a level of psychological violence; (iv) all civil courts that have examined cases of *amparo* (protection of constitutional rights) brought by workers in defence of their right to work have decided in the workers' favour; (v) whereas, under Decree No. 165/2006 regulating the steps that the trade unions must take to occupy a workplace, there has not been a case of an employer securing the withdrawal of the labour authority from his or her enterprise; and (vi) that Decree, under which enterprise occupation is considered a form of the right to strike, should be derogated. The Committee notes that the employers' organizations lastly state that for over eight years, the Government has been failing to comply with its obligation to submit to Parliament a draft bill addressing the supervisory bodies' comments on workplace occupation and that, given the impossibility of reaching a tripartite agreement in this respect, it is incumbent on the Government to take the necessary steps to end this situation of non-compliance. The Committee notes, however, the Government's indication that, in cases of workplace occupation, the civil courts are competent to hear cases of *amparo* brought by workers who consider that their freedom to work is being violated and that, in this respect, there is clear jurisprudence safeguarding freedom to work.

The Committee also notes that, in the context of the tripartite discussions subsequent to the March 2015 agreement, the Government submitted two proposals on legislative amendments to the social partners in September 2016 and March 2017. The Committee notes in particular that the proposal made in March 2017 sets out a mechanism for dispute prevention and settlement procedures which specifically provides: (i) in cases where pickets or workplace occupations do not respect the prior process of dispute prevention and settlement, for the Ministry of Labour and Social Security and/or the Ministry of the Interior to order, within a required 24-hour time limit, the cessation of these actions, with the entitlement to use force; and (ii) for the obligation of pickets, as a union measure, to be carried out peacefully, without disturbing the public order and while enabling free movement and entry into the workplace; that the Ministry of the Interior may intervene and public force may be used if this obligation is not fulfilled. The Committee notes, however, that the Government's March 2017 proposal: (i) does not appear to envisage amendments regarding enterprise occupations which may take place following the finalization of the proposed dispute prevention and settlement mechanism; and (ii) does not explicitly provide for the obligation of enterprise occupations to respect the freedom to work of non-striking workers. In this respect, the Committee reiterates "that insofar as the strike remains peaceful, strike pickets and workplace occupations should be allowed. Restrictions on strike pickets and workplace occupations can only be accepted where the action ceases to be peaceful. It is however necessary in all cases to guarantee respect for the freedom to work of non-striking workers and the right of the management to enter the premises" (see the 2012 General Survey on the fundamental Conventions, paragraph 149).

The Committee notes lastly that: (i) while the Inter-Union Assembly of Workers–Workers' National Convention (PIT–CNT) supports the proposal on a generic process of dispute prevention for settings in which no process is in place, it does not support the legislative amendment on enterprise occupation proposed by the Government, deeming this to be a matter for collective bargaining; and (ii) as indicated in its observations addressed to the Committee, the employers' organizations, which submitted an alternative proposal for legislative amendments, do not support the governmental proposal as they consider, in particular, that enterprise occupations are not a form of exercising the right the strike and that the Decree governing them should be derogated.

In the light of the above, the Committee notes that, under the tripartite agreement of March 2015, substantial consultations have been held on the legislative reform regarding labour relations, with criteria for various drafts being shared. The Committee notes, however, that those efforts have not led to a tripartite agreement on the specific issue of enterprise occupation and, to date, no draft law has been submitted that addresses all the Committee's requests. ***Emphasizing, once again, the importance of the guidelines set out by national case law in this respect, the Committee requests the Government, after submitting the text for consultation with the social partners, to present to Parliament a draft regulating enterprise occupations, in full compliance with the Convention. Recalling that it can continue to rely on the Office's technical assistance, the Committee firmly hopes that the Government will shortly be in a position to report the tangible progress made in this regard.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1954)

The Committee notes the joint observations of the International Organisation of Employers (IOE), the Chamber of Industries of Uruguay (CIU) and the National Chamber of Commerce and Services of Uruguay (CNCS), received on 31 August 2016, 2017 and 2018, which refer to the issues examined by the Committee in the present comment. The Committee notes the additional joint observations of the IOE, CIU and CNCS received on 28 November 2018. ***The Committee requests the Government to provide its comments thereon.***

Article 4 of the Convention. Promotion of free and voluntary bargaining. Regarding the revision of Act No. 18566 of 2009 (establishing the fundamental rights and principles of the collective bargaining system, hereinafter Act No. 18566) requested by the Committee on Freedom of Association (Case No. 2699) and the Committee with a view to ensuring the full compliance of the Act with the principles of collective bargaining and the Conventions ratified by Uruguay in this area, the Committee recalls that, in its previous comments, it: (i) welcomed the tripartite agreement concluded in March 2015 through which a process of tripartite dialogue was initiated on this matter; (ii) noted the concerns of the employers' organizations regarding the absence of progress in this dialogue; and (iii) firmly hoped that the dialogue process would lead to concrete measures being taken to bring the law and practice into full conformity with the Convention. In this regard, the Committee notes that, in their observations, the employers' organizations: (i) refer to the regulatory proposals discussed in 2016 and 2017 by the Government and the employers within the framework of the above tripartite dialogue and the technical assistance provided in this respect by the Office through a Technical Note in October 2017; (ii) clearly set out their alternative proposals to those of the Government with regard to various aspects of the revision of Act No. 18566; (iii) assert that, with regard to the jurisdiction of the Wage Boards over remuneration and working conditions, the Government has not proposed any legislative amendments and still refuses to acknowledge that the tripartite negotiations that are held within the framework of the Wage Boards equate in practice to a form of compulsory arbitration in which representatives of the Ministry of Labour and Social Security set out and define the limits of the negotiation; and (iv) assert that, in so far as the Government has not achieved tripartite agreement on the reforms requested for eight years by the Committee on Freedom of Association and the Committee, it must now fulfil its obligation to submit to Parliament a draft bill that remedies the non-conformity with the principles derived from the international Conventions ratified by Uruguay in the area of collective bargaining.

The Committee duly notes that, in the framework of the tripartite discussions following the agreement of March 2015, the Government submitted to the social partners several proposals for legislative amendments in December 2015, September 2016 and March 2017. The Committee considers that several of the amendments to Act No. 18566, proposed by the Government with the aim of addressing the comments of the ILO supervisory bodies, are in compliance with the obligations arising out of *Article 4* of the Convention to promote free and voluntary collective bargaining. The Committee refers in particular to the proposals: (i) to include a final phrase in section 4 of Act No. 18566, requiring that trade unions have legal status to be able to receive information from enterprises in the context of the collective bargaining process, with a view to facilitating the initiation of liability action in the event of violations of the duty of confidentiality; (ii) to remove section 10(d) of the Act, which establishes the jurisdiction of the Higher Tripartite Council to define the level of bipartite or tripartite negotiations; (iii) to remove the final part of section 14 of the Act, which attributes, in the absence of a trade union in an enterprise, negotiating capacity to higher-level trade unions; (iv) to amend section 17(2) of the Act so that the issue of continuing effect is subject to negotiation for each agreement, allowing for the establishment of total continuing effect, partial continuing effect, or a time frame for the extension of the effect of the agreement to allow its renegotiation; and (v) to clarify that the registration and publication of the decisions of the Wage Boards and collective agreements do not constitute any requirement for authorization, validation or approval from the Executive Branch.

While noting that some of these proposals are the subject of tripartite agreement or partial agreement, while others still have not been agreed upon, the Committee welcomes their formulation and emphasizes their potential contribution to bringing Act No. 18566 into conformity with the Convention. However, the Committee notes with ***regret*** that the Government's proposed amendments still do not include amendments and clarifications regarding the jurisdiction of the Wage Boards, which are tripartite bodies, in relation to adjustments to wages that are above the minimum for the occupational category and of working conditions. The Committee notes in this respect: (i) the Government's assertion that Act No. 18566 gives absolute priority to bipartite negotiation, as Wage Boards may not be convened if a collective agreement of the same level is in force in the same sector of activity; and (ii) the assertion by the employers' organizations that tripartite negotiations held within the framework of the Wage Boards are equivalent in practice to a form of

compulsory arbitration, which goes beyond the fixing of minimum wages. The Committee once again recalls in this respect that, while the fixing of minimum wages may be subject to decisions by tripartite bodies, *Article 4* of the Convention seeks to promote bipartite bargaining for the determination of terms and conditions of work, and any collective agreement determining terms and of conditions of work must therefore be the result of an agreement between employers or their organizations and workers' organizations. The Committee also emphasizes that mechanisms may be established that guarantee both the free and voluntary nature of collective bargaining and its effective promotion, thereby ensuring a high level of coverage of collective agreements.

In light of the above and taking due note of the tripartite dialogue undertaken since the conclusion of the agreement of March 2015, as well as of the formulation of legislative proposals that address some of its comments, the Committee requests the Government, after submitting the text for consultation with the social partners, to submit to Parliament a draft bill guaranteeing the full compliance of national law and practice with the Convention. Recalling that the Government may continue to avail itself of ILO technical assistance, the Committee firmly hopes that the Government will be able to report tangible progress in this regard in the near future.

Uzbekistan

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1992)

The Committee recalls that it had requested the Government to provide its comments on the 2016 observations of the International Union of Food, Agricultural, Hotel, Restaurant Catering, Tobacco and Allied Workers' Associations (IUF) alleging that the Government represses independent trade union organizing, controls the Federation of Trade Unions of Uzbekistan (FPU) and retaliates against activists for monitoring labour relations and practices. The Committee notes with *concern* that in lieu of its own reply, the Government communicates the response of the FPU on the allegations made by the IUF as well as to the Committee's previous direct request through which it refutes the allegations made by the IUF. *The Committee recalls that the ultimate responsibility for ensuring respect for the ratified Conventions lies with the Government and expects that the Government will be providing information on the measures it had taken to address the issues raised by the Committee.*

Article 4 of the Convention. Promotion of collective bargaining. The Committee recalls that for a number of years it has been requesting the Government to take the necessary measures to amend sections 21(1), 23(1), 31, 35, 36, 48, 49 and 59 of the Labour Code so as to ensure that the legislation makes it clear that, only in the absence of trade unions at the enterprise, the branch or the territory, can the authorization to bargain collectively be conferred on other representatives elected by workers. The Committee notes that the FPU is of the view that the above provisions are in conformity with the Workers' Representatives Convention, 1971 (No. 135), and therefore there is no need to amend the Labour Code in this respect. The Committee once again recalls that direct negotiation between the undertaking and workers' representatives, bypassing sufficiently representative workers' organizations, where these exist, can be detrimental to the principle that negotiation between employers and representative organizations of workers should be encouraged and promoted. *The Committee, therefore, once again requests the Government to take the necessary measures to amend the abovementioned sections so as to ensure that it is clear that only in the event where there are no trade unions at the enterprise, the branch or the territory, can the right to bargain collectively be conferred on other workers' representatives. The Committee requests the Government to indicate the measures taken or envisaged in this respect.*

Collective labour disputes. The Committee recalls that it had previously noted the Government's indication that it was working on a draft law which would regulate collective labour disputes. The Committee notes the FPU's indication that the law in question has not been adopted. The FPU further informs that together with the Chamber of Commerce and Industry of Uzbekistan and in consultation with the Ministry of Labour and Social Protection, recommendations on the organization of activities of commissions on labour disputes were adopted in the beginning of 2015. *The Committee requests the Government to provide a copy thereof.*

The Committee notes the information provided by the Government on the number of collective agreements concluded at sectoral, territorial and enterprise levels and the number of workers covered. *It requests the Government to continue to provide this type of information.*

Bolivarian Republic of Venezuela

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1982)

The Committee notes the decision adopted by the Governing Body at its 332nd Session to establish a Commission of Inquiry in relation to the complaint alleging non-observance by the Bolivarian Republic of Venezuela of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

In these circumstances, and in accordance with the usual practice of suspending the operation of the other supervisory mechanisms during the mandate of the Commission of Inquiry, the Committee will resume its examination of the application of the Convention by the Bolivarian Republic of Venezuela once the Commission of Inquiry has completed its mission.

Yemen

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1976)

The Committee had previously requested the Government to provide comments on the 2012 observations made by the International Trade Union Confederation (ITUC) alleging that striking teachers were dismissed, striking sanitation workers were injured, and that the offices of the Yemeni Journalists' Syndicate were attacked. ***Noting with regret that the Government provides no reply to these observations, the Committee reiterates its previous request.***

The Law on Trade Unions (2002)

Articles 2 and 5 of the Convention The Committee had previously requested the Government to indicate whether employees of high-level public authorities and Cabinets of Ministers, excluded by virtue of its section 4 from the Law on Trade Unions (LTU) enjoy the right to establish and join trade unions. ***While taking due note of the Government's indication that since 2011 union committees have been established in all ministerial offices, the Committee requests the Government to clarify if senior public officials also have the right to establish and join their own organizations.***

The Committee had also requested the Government to take the necessary measures to amend sections 2, 20 and 21 of the LTU so as to repeal specific reference to the General Federation of Trade Unions of Yemen (GFTUY) and thereby to allow workers and their organizations to establish and join the federation of their own choosing. The Committee notes the Government's reiteration that it imposes no restrictions on trade union activity and that there are many unions representing workers' interests that do not operate within the framework of the GFTUY (for example, Trade Union of Doctors, Trade Union of Pharmacists, Trade Union of Engineers, and Lawyers' Trade Union). ***Noting that the specific reference to the GFTUY remains in the legislation, and that it could result in making it impossible to establish a second federation to represent workers' interests, the Committee once again requests that the Government take necessary measures to amend the LTU so as to delete this specific reference.***

Article 3. The Committee had previously requested the Government to clarify whether section 40(b) of the LTU required an authorization from the higher level trade union for a strike to be organized, and if this was the case, to take the necessary measures to amend the legislation to bring it into conformity with the Convention. In this regard, the Committee notes the Government's indication that by virtue of section 40(b) of the LTU there is a requirement to coordinate with the higher union body to organize a partial or general strike and that the Committee's previous comment on this legislative issue is being considered for the amendment of the Act. ***The Committee trusts that the Government will take the necessary measures to amend the LTU so as to ensure the right of workers' organizations to organize their activities and formulate their programmes. The Committee requests the Government to provide information on any development in this regard.***

The draft Labour Code. The Committee recalls that in its previous comments it had expressed the hope that the draft Labour Code would be adopted in the near future and that the Government would take into account the Committee's comments to further amend or revise some of the provisions in the draft. The Committee notes the Government's indication that due to the armed conflict affecting the country since 2011 it has been unable to complete the amendments of the labour legislation. The Committee further notes the Government's indication that the draft Labour Code is not applicable to domestic workers, members of the judiciary, and diplomatic and consular staff, but that their rights are guaranteed by law. ***Recalling that the only authorized exceptions from the scope of application of the Convention are members of the police and the armed forces, the Committee requests the Government to indicate all legislative provisions that afford domestic workers, members of the judiciary, and diplomatic and consular staff, the right to establish and join workers' organizations of their own choosing and without previous authorization.***

The Committee further notes the Government's indication that the draft Labour Code contains no provisions denying the right of workers' organizations to affiliate with international labour organizations.

The Committee recalls that it had also requested the Government to:

- revise section 173(2) of the draft Labour Code so as to ensure that minors between the ages of 16 and 18 years may join trade unions without parental authorization;
- provide a list of essential services referred to in section 219(3) of the draft Code, which empowers the Minister to submit disputes to compulsory arbitration, which will be issued by the Council of Ministers once the Labour Code is promulgated;
- amend section 211 of the draft Labour Code which provides that strike notice must include an indication of the duration of a strike to ensure that a trade union can call a strike for an indeterminate period of time.

While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the current legislative reform will bring the national legislation into full conformity with the Convention and requests the Government to indicate any developments in this regard.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1969)

Articles 2 and 3 of the Convention. Protection against anti-union interference. The Committee recalls that, for a number of years, it has been requesting the Government to ensure that effective and sufficiently dissuasive sanctions that guarantee the protection of workers' organizations against acts of interference by employers or their organizations in trade union activities are expressly provided for in the national legislation. The Committee notes that the Government indicates once again that protection against interference for trade union activities is provided under the Labour Code and that it will seek to provide further legal protection when amending the Act on Trade Unions (ATU) in accordance with the Convention. ***The Committee once again requests the Government to indicate the progress made in this respect, and to provide copies of the amended legislative texts aimed at ensuring full respect for the rights enshrined in the Convention, as soon as they have been adopted.***

Article 4. Refusal to register a collective agreement on the basis of consideration of "economic interests of the country". The Committee recalls that it had previously requested the Government to take the necessary measures to amend sections 32(6) and 34(2) of the Labour Code so as to ensure that refusal to register a collective agreement is only possible due to a procedural flaw or because it does not conform to the minimum standards laid down by the labour legislation, and not on the basis of consideration of "the economic interests of the country". While the Committee had previously noted that the Government had adopted the Committee's proposal with regard to the amendment of the abovementioned section of the Labour Code, the Committee notes the Government's new indication that it will study the Committee's views in this respect. ***The Committee requests once again the Government to take the necessary measures to bring sections 32(6) and 34(2) of the Labour Code into conformity with the Convention.***

Articles 4 and 6. Right to collective bargaining of public servants not engaged in the administration of the State. ***The Committee once again requests the Government to indicate the legal provisions which guarantee the right to collective bargaining of public servants not engaged in the administration of the State.***

While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.

Zambia

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)

The Committee notes the Government's reiteration in reply to the 2015 observations of the International Trade Union Confederation (ITUC) concerning allegations of dismissals of workers in the mining sector on grounds of participation in strikes, that protests and strikes are allowed as long as they adhere to the Provisions of the Industrial and Labour Relations Act. The Committee takes note of the observations of the ITUC received on 1 September 2016 referring to matters under examination by the Committee.

Revision of the Industrial and Labour Relations Act (as amended by the Industrial and Labour Relations (Amendment) Act, 2008). The Committee had previously requested the Government to amend the following provisions of the Industrial and Labour Relations (Amendment) Act No. 8 of 2008 (ILRA) so as to bring them in conformity with articles 2 and 3 of the Convention:

Article 2 of the Convention:

- section 2(e), which excludes from the scope of the Act, and therefore from the guarantees afforded by the Convention, workers in the prison service, judges, registrars of the court, magistrates and local court justices, and section 2(2), which accords the Minister discretionary power to exclude certain categories of workers from the scope of the Act.
- section 5(b), which provides that an employee can only become a member of "a trade union within the sector, trade, undertaking, establishment or industry in which the employee is engaged" since it limits trade union membership to workers in the same occupation or branch of activity. In this respect, the Committee once again recalls that such conditions may be applied to first-level organizations, on condition that these organizations are free to establish inter-professional organizations, and to join federations and confederations in the form and manner deemed most appropriate by the workers concerned.

- section 9(3), which sets a maximum of six months as the period of registration of a trade union, thereby constituting a serious obstacle to the establishment of organizations and amounting to denial of the right of workers to establish organizations without previous authorization.

Article 3

- section 7(3), which allows a labour commissioner to prohibit a trade union officer from holding office in any trade union for a period of one year if, following the commissioner's refusal to register the union, this union is not dissolved within six months. In this respect, the Committee once again recalls that an act, the nature of which is not such as to call into question the integrity of the person concerned and is not such as to be prejudicial to the performance of trade union duties, should not constitute grounds for disqualification from trade union office.
- section 21(5) and (6), which confers on the Commissioner the power to suspend and appoint an interim executive board of a trade union, as well as to dissolve the board and call for a fresh election.
- sections 18(1)(b) and 43(1)(a), under which, a person, having been an officer of an employers' or workers' organization whose certificate of registration has been cancelled, may be disqualified from being an officer of a trade union if that person fails to satisfy the commissioner that she or he did not contribute to the circumstances leading to such cancellation.
- section 78(4), which limits the maximum duration of a strike to 14 days, after which, if the dispute remains unsolved, it is referred to the court; section 78(6)–(8), under which a strike can be discontinued if it is found by the court not to be "in the public interest"; section 78(1), under which, as interpreted by a decision of the industrial relations court, either party may take an industrial dispute to court; section 107, which prohibits strikes in essential services, defined too broadly, and empowers the Minister to add other services to the list of essential services, in consultation with the tripartite consultative labour council; and which empowers a police officer to arrest, without any possibility of bail, a person who is believed to be striking in an essential service and which imposes a fine and up to six months' imprisonment.

The Committee notes with **regret** that the last review of the ILRA (Act No. 19 of 22 December 2017) failed to address the substantive issues pointed out by the Committee. ***The Committee expects that the ILRA will be further amended in the very near future following full and frank consultations with the social partners and taking into account the comments it has been making for many years. The Committee urges the Government to provide information on any progress made in this respect.***

The Committee recalls that for a number of years it has been requesting the Government to address the issue of the recognition of the Zambia Union of Financial Institutions and Allied Workers (ZUFIAW) by the Zambia Revenue Authority (ZRA). It had previously noted the Government's indication that the enabling legislation may need to be reviewed to resolve the issue of recognition. The Committee notes with **concern** the Government's indication in its report that the recognition of the ZUFIAW by the ZRA has been closed under guidance from the Ministry of Justice and the Bank of Zambia, as the ZRA is not in the sector represented by ZUFIAW. ***The Committee requests the Government to provide detailed information in this respect and to indicate whether workers of the ZRA can establish or join unions of their own choosing, without prior authorization as called for under the Convention.***

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1996)

The Committee notes the Government's reply on the observations of the International Trade Union Confederation (ITUC) of 2017 and the Government's expression of its commitment to comply with the Conventions it has ratified.

Articles 1–4 of the Convention. Adequate protection against acts of anti-union discrimination and promotion of free and voluntary collective bargaining. On several occasions, the Committee had requested the Government to give consideration to amending the following provisions of the Industrial and Labour Relations Act (ILRA), so as to bring the Act into full conformity with the provisions of the Convention:

- Section 85(3) of the ILRA, which provides that the court shall dispose of the matter before it (including disputes between an employer and an employee, as well as the matters affecting trade unions and collective bargaining rights) within a period of one year from the day on which the complaint or application is presented to it. The Committee previously recalled that when allegations of violations of trade union rights are concerned, both the administrative bodies and the competent judges should be empowered to give a ruling rapidly. ***While noting the Government's indication that the revitalization of an Alternative dispute resolution (ADR) mechanism could help in reducing the backlog of the cases faced by the judiciary, the Committee once again requests the Government to take measures to shorten the maximum period within which a court should consider the matter and issue its ruling thereon. The Committee requests the Government to provide information on any progress in this respect.***
- Section 78(1)(a) and (c) and section 78(4) of the ILRA, which allow, in certain cases, either party to refer the dispute to a court or arbitration. While taking note of the Government's indication that, although the ILRA may present deficiencies in the processes and procedures of collective dispute resolution and that other pieces of legislation, such

as the Arbitration Act No. 19 of 2000, can be referred to, the Committee wishes to reiterate that its comments refer specifically to the fact that both parties involved in the dispute need to accept the arbitration proceedings, for the latter to be voluntary. The Committee therefore cannot but recall that, in accordance with the principle of voluntary negotiation of collective agreements, arbitration imposed by legislation at the request of just one party is only acceptable in relation to public servants engaged in the administration of the State (*Article 6 of the Convention*), essential services in the strict sense of the term and acute national crisis. ***The Committee once again requests the Government to give consideration to amending the above provisions so as to ensure that arbitration in situations other than those mentioned above can take place only at the request of both parties involved in the dispute.***

Noting with regret that the last review of the ILRA (Act No 19 of 22 December 2017) failed to address the substantive issues it has been pointing out for a number of years, the Committee firmly hopes that the necessary amendments to bring the Act into full conformity with the provisions of the Convention will be adopted in the very near future. Recalling that it can avail itself of the technical assistance of the Office, the Committee requests the Government to provide information on any progress achieved in this respect.

Article 4. Collective bargaining in practice. The Committee requests the Government to provide information on the number of collective agreements signed and in force in the country, indicating the sectors and the number of workers covered.

Zimbabwe

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2003)

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) and the International Trade Union Confederation (ITUC), received on 31 August and 1 September 2018, respectively, referring to the issues raised by the Committee below.

The Committee takes note of the report of the high-level mission of the Office which visited the country in February 2017, following the conclusions of the Committee on the Application of Standards (CAS), of the 105th Session of the International Labour Conference, with respect to the application by Zimbabwe of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and the implementation of the 2009 Commission of Inquiry's recommendations.

Follow-up to the recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO

Trade union rights and civil liberties. In its previous observations, the Committee had requested the Government to provide detailed information on the implementation of the conclusions of the training-of-trainers workshop for members of the Zimbabwe Republic Police (ZRP), conducted by the Government with the technical assistance of the Office in November 2016. The Committee notes with *interest* the Government's indication in its report that following the workshop, a training curriculum was developed and disseminated to all professional updating centres (training centres) of the ZRP. The Government indicates that the training curriculum is now part of the material taught to all members of the ZRP during induction and refresher courses. The ZRP has developed a course the main aim of which is to equip officers with competency skills and a good attitude in the management of labour related cases. During the course, police officers are introduced to the structure and functioning of the ILO, national labour laws and the role of police and other key state actors. The Committee notes with *interest* a copy of the curriculum annexed to the Government's report.

While noting the ZCTU's indication that all members of the Zimbabwe Banks and Allied Workers Union (ZIBAWU) who were arrested on 20 July 2016 for protesting against non-payment of employees' terminal benefits after termination of their employment contracts were subsequently released, the Committee notes with *concern* the allegations submitted by the ITUC and the ZCTU regarding: (i) the injuries suffered by the ZCTU personnel when the union's office came under attack by soldiers during the demonstrations on 1 August 2018; (ii) cases of strike action being banned and criminalized; and (iii) denial or delay of trade unions registration. ***The Committee requests the Government to provide its comments thereon and firmly hopes that these serious allegations will be the subject of appropriate investigations that are vigorously pursued.***

Public Order and Security Act (POSA). The Committee notes that according to the report of the high-level mission, divergences in the understanding of the scope of the POSA among the Public Prosecutor's Office, the police, and legal officers of the ZRP lead to lack of legal certainty, and that this perception appeared to be reinforced by the continued allegations of the POSA being used to ban protest actions. In light of the above, the mission suggested to review the application of the POSA in the Tripartite Negotiating Forum (TNF) with a view to making proposals to ensure with greater clarity that trade union activities are outside its scope. The Committee takes note of the ZCTU's indication that no legislative changes have been made to align the POSA with the Constitution and the Convention. ***The Committee therefore once again requests the Government to review the application of POSA, in consultation with the social partners.***

Labour law reform and harmonization. Labour Act. In its previous comments, the Committee had requested the Government to provide information on the progress achieved in bringing the labour and public service legislation into conformity with the Convention. The Committee notes the detailed information provided by the Government in this respect and notes, in particular, that following the approval by the Cabinet of the principles for the amendment of the Labour Act, in December 2016, the Government engaged a consultant to expedite the drafting of the bill. However, the consultant's draft was not accepted by the tripartite constituents. Subsequently, the Government and the social partners agreed to engage the Attorney General in drafting the bill, in consultation with the social partners. The final draft was submitted to Cabinet and will be tabled before Parliament when it resumes its sitting. The Committee notes that, according to the ZCTU, although the social partners had discussed this Attorney General's draft of the amendment of the Labour Act, the principles agreed upon were not reflected in the draft produced by the Attorney General's Office nor in the second draft produced by the Government. Another tripartite meeting was held in December 2017 during which consensus was reached with the Government on how to improve the draft. However, according to ZCTU, the Government failed on its promise to share with it a new version of the draft. ***The Committee urges the Government to share the latest version of the revised draft to amend the Labour Act with the social partners without further delay. The Committee notes with concern that, despite its numerous requests, some of which predate the 2009 Commission of Inquiry, there is no concrete progress in amending the Labour Act so as to bring it into conformity with the Convention. Noting from the high-level mission report that the social partners were concerned that the legislative reform was slow and haphazard, leading to the perception of a lack of political will to carry it out, the Committee expects that the labour law review will be concluded in full consultation with the social partners, without further delay.***

Public Service Act. The Committee notes the Government's indication that the Attorney General is currently drafting a Public Service Amendment Bill on the basis of principles previously agreed on by the Cabinet. The Committee recalls in this respect that it had previously noted that according to Principle 4.4 of the Public Service Act, staff of the Civil Service Commission shall not have the right to organize and had requested the Government to take the necessary measures to ensure that under the new provisions of the Public Service Act, the staff of the Civil Service Commission enjoys the rights enshrined in the Convention. The Committee notes the Government's indication that the Secretariat to the Public Service Commission in Zimbabwe is peculiar in nature and is responsible not only for the entire public service but also for the uniformed forces, in accordance with the country's Constitution. The Committee reiterates that the Convention does not contain a provision excluding from its scope certain categories of public servants. Accordingly, the right to establish and join occupational organizations should be guaranteed to all public servants and officials, irrespective of whether they are engaged in the state administration or are officials of bodies which provide important public services. ***The Committee therefore reiterates its previous request and hopes that the Government will take the necessary measures to ensure that the staff of the Civil Service Commission enjoy the rights established in the Convention.***

The Committee had also noted that pursuant to Principle 9.2, the registration of public service associations and trade unions shall be done on the advice of the Civil Service Commission and had requested the Government to take the necessary measures to ensure that legislative provisions adopted on the basis of this Principle do not impose in practice a requirement of "previous authorization", in violation of Article 2 of the Convention, or give the authorities discretionary power to refuse the establishment of an organization. The Committee notes the Government's indication that the phrase "on the advice of" means that the Commission will have an administrative function in the processing of applications for registration, without discretionary power to deny registration. ***The Committee expects that the legislative provisions dealing with the registration of organizations of public servants will be sufficiently clear so as to not to give rise to possible interpretation of the law as giving discretionary power to the authorities to refuse the registration of an organization.***

Regarding Principle 11.3, which provides for the definition of essential services to include services the interruption of which "would endanger ... all rights enshrined in the Constitution", the Committee had observed that such broad limitation on the right to strike could be used in a manner so as to restrict the legitimate exercise of the right to strike and had requested the Government to take the necessary measures to ensure that the relevant legislative provision does not contain the excessively broad reference to "all right enshrined in the Constitution" in the definition of essential services so as to ensure that workers fully enjoy the rights guaranteed by the Convention. The Committee notes the Government's indication that the definition of essential services in the Amendment Act will be in line with the Convention and the Constitution of Zimbabwe.

The Committee had previously noted with concern that according to the ZCTU, the process of harmonization of the Public Service Act did not include the social partners represented in the TNF. The Committee observes that in its latest observation, the ZCTU alleges that the Government continues to snub the social partners with regards to the amendment of the Public Service Act. The Committee notes the Government's indication that consultations took place in a tripartite meeting, which the ZCTU attended in Pandhari in 2014, and that further consultations were undertaken within the National Joint Negotiating Council (NJNC) in 2017. The Government furthermore assures that tripartite consultations will continue once the Attorney General has produced the first draft bill. ***The Committee expects that the process of reviewing the public service legislation will be conducted in full consultation with the social partners.***

Health Services Act. The Committee notes the ZCTU's indication that the Health Services Act requires reforms as it mostly duplicates the Public Service Act, in particular regarding freedom of association and collective bargaining rights

and that, between 2010 and 2014, the TNF has agreed on the need to align the provisions of the Act with the Conventions and the Constitution. *Noting the ZCTU's allegation that the social partners have been alienated in the process, the Committee requests the Government to provide detailed information on steps undertaken or contemplated to consult with the social partners regarding the Health Service Act.*

[The Committee requests the Government to reply in full to the present comments in 2019.]

Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1998)

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) and the International Trade Union Confederation (ITUC), received on 31 August and 1 September 2018, respectively, as well as the Government's reply to the ZCTU observations. The Committee also notes the observations of Education International (EI) and the Zimbabwe Teacher's Association (ZIMTA), received on 1 October 2018, referring to the issues raised by the Committee below.

The Committee takes note of the report of the high-level mission of the Office that took place in February 2017, following the conclusions of the 105th Session of the Committee on the Application of Standards of the International Labour Conference with respect to the application by Zimbabwe of the Convention and the implementation of the 2009 Commission of Inquiry's recommendations.

Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

Labour law reform and harmonization

The Committee had previously requested the Government to provide information on the progress achieved in bringing the labour and public service legislation into conformity with the national Constitution and the Convention.

Labour Act. In its previous comment, the Committee had noted that the Government, in agreement with the social partners, had initiated the amendment of the Labour Act through principles that were adopted by the Tripartite Negotiating Forum (TNF) on 1 September 2016, seeking to harmonize the Act with the Constitution and the Convention on the basis of the ILO supervisory bodies' comments and to address concerns raised by the ZCTU and the ITUC in 2014 and 2015 regarding anti-union discrimination in the country.

The Committee recalls, in particular, the following principles adopted by the TNF:

- Principle 2 (collective bargaining) provides for the amendment of sections 25, 79 and 81 of the Labour Act, as well as section 14 of the Labour Amendment Act No. 5, to ensure that collective agreements are not subject to ministerial approval on the grounds that the agreement is or has become "... unreasonable or unfair" or "contrary to public interest".
- Principle 4 (collective job action) refers, among others, to the need for clear laws for the protection of workers and their representatives against anti-union discrimination.

The Committee notes the Government's indication that following the adoption of the Labour Law Reform Principles by the Cabinet, in December 2016, the Government agreed with the social partners to engage a consultant to expedite the drafting of the bill. However, upon completion of work by the consultant, the draft was not accepted by the tripartite constituents. Subsequently, after a number of consultative meetings held in 2017 and 2018 with a view to discuss the drafts of the bill submitted by the Attorney General, the final draft of the Labour Amendment Bill is now finalized and will be tabled before Cabinet and then Parliament. The Committee notes with **concern** the ZCTU's allegation that: (i) the draft of the Labour Amendment Bill produced by the Attorney General's Office deliberately ignored the Committee's observations despite reminders by the ZCTU and the need to give effect to agreed principles; and (ii) the draft does not include any provision setting clearly the protection of workers and their representatives against anti-union discrimination.

Public Service Act. In its previous comments, the Committee had requested the Government to provide information on the progress achieved in bringing the labour and public service legislation into conformity with the Constitution and the Convention. The Committee had previously noted with concern that according to the ZCTU, the process of harmonization of the Public Service Act did not include the social partners represented in the TNF. The Committee observes that in their latest observations, the ZCTU, EI and ZIMTA affirm that the Government continues to snub the social partners with regard to the amendment of the Public Service Act and that the failure to make legislative changes disadvantages public service employees as both the Public Service Act and the Health Services Act do not recognize the right to collective bargaining, save for consultations in which the employer has an upper hand in decision-making. The Committee notes the Government's indication that the principles to amend the Public Service Act were approved by the TNF at Pandari in 2014 and further consultations were undertaken within the National Joint Negotiation Council (NJNC). The Government indicates that the Attorney General's Office is in the process of drafting the bill and that it is envisaged that the social partners will be consulted once the Attorney General has produced the first draft.

While noting the Government's statement that it appreciates the concern over the delay in the finalization of the labour law reform and harmonization and that the final draft of the Labour Amendment Bill has been finalized taking into

consideration all the comments and recommendations of the ILO supervisory bodies, the Committee notes with **concern** that, despite its numerous requests, some of which predate the 2009 Commission of Inquiry, there is no concrete progress in amending both the Labour Act and the Public Service Act so as to bring them into conformity with the Convention. In this respect, the Committee observes that the high-level mission noted in its report that the social partners were concerned that the legislative reform was slow and haphazard, leading to the perception of a lack of political will to carry it out. ***In light of the above, the Committee requests the Government to devote all the necessary efforts to ensure that the process of reviewing the labour and public service legislation with a view to ensuring its conformity with the Convention will both be conducted in full consultation with the social partners and move forward without further delay. The Committee requests the Government to provide information on any progress in this regard.***

Article 4 of the Convention. Promotion of collective bargaining. The Committee notes with **concern** the ZCTU's indication that section 56(2) of the recently promulgated Special Economic Zones Act does not recognize the right to collective bargaining and gives power to the Special Economic Zones Authority and the Minister to determine conditions of work. In this respect, the Committee notes that the high-level mission had concluded in its report that the Special Economic Zones Act continued to refer to conditions of employment as determined by the Ministry and the Authority, without mentioning the social partners' input or collective bargaining (section 56 of the Act). ***The Committee therefore requests the Government to take the necessary measures to amend the abovementioned legislation, in consultation with the social partners, so as to bring it into conformity with the Convention and to provide information on any developments in this regard.***

Application of the Convention in practice

Article 1. Adequate protection against acts of anti-union discrimination. The Committee had requested the Government to provide detailed information on its engagement with the ZCTU regarding cases of alleged anti-union discrimination as compiled by the ZCTU. The Committee notes the Government's indication that it engaged with the ZCTU in December 2016, which subsequently lead to the resolution of most of them. Some of the cases could not be traced due to insufficient information. The Government further indicates that with the assistance of the ILO, it is in the process of coming up with an electronic case management system, which will assist in tracking labour dispute cases, particularly those relating to anti-union discrimination. ***The Committee requests the Government to provide detailed information on any developments on this subject.***

The Committee notes with **concern** the ITUC's allegation of a widespread anti-union discrimination in the construction sector, in which several Zimbabwe Construction and Allied Trade Workers' Union (ZCATWU) members would have been victims of assault and harassment because of their trade union membership, mainly in multinationals and foreign-owned companies, and ZCATWU representatives being denied access to companies' premises. ***The Committee requests the Government to provide its comments thereon and hopes that these serious allegations will be the subject of appropriate investigations and vigorously pursued.***

[The Government is asked to reply in full to the present comments in 2019.]

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 11** (Cook Islands, Solomon Islands); **Convention No. 87** (Algeria, Botswana, Congo, Democratic Republic of the Congo, Dominica, El Salvador, Eritrea, Eswatini, Gambia, Grenada, Haiti, Jamaica, Kiribati, Kyrgyzstan, Libya, Malawi, Mexico, Mozambique, Netherlands: Aruba, Pakistan, Papua New Guinea, Peru, Philippines, Poland, Portugal, Romania, Rwanda, Saint Lucia, Samoa, Sao Tome and Principe, Seychelles, Sierra Leone, Solomon Islands, Spain, Sri Lanka, Suriname, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Turkmenistan, United Kingdom, United Kingdom: Anguilla, United Kingdom: Montserrat, Uzbekistan, Vanuatu); **Convention No. 98** (Barbados, Brazil, Chad, Croatia, Eswatini, Ireland, Kyrgyzstan, Libya, Malawi, Mozambique, Philippines, Romania, Samoa, San Marino, Senegal, Serbia, Slovakia, Slovenia, Solomon Islands, South Africa, South Sudan, Spain, Suriname, Tajikistan, Timor-Leste, Tunisia, Turkmenistan, Ukraine, United Kingdom, United Kingdom: Anguilla, United Kingdom: Bermuda, United Kingdom: British Virgin Islands, United Kingdom: Montserrat, Vanuatu, Bolivarian Republic of Venezuela); **Convention No. 135** (Dominica); **Convention No. 141** (India); **Convention No. 151** (Netherlands: Curaçao); **Convention No. 154** (Belize, Kyrgyzstan, Saint Lucia).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 87** (Netherlands: Curaçao); **Convention No. 141** (Belize).

Forced labour

Algeria

Forced Labour Convention, 1930 (No. 29) (ratification: 1962)

Article 2(1) of the Convention. Civic service. For several years the Committee has been drawing the Government's attention to the incompatibility with the Convention of sections 32, 33, 34 and 38 of Act No. 84-10 of 11 February 1984 concerning civic service, as amended in 1986 and 2006. Under the aforementioned provisions, it is possible to require persons who have completed a course of higher education or training in branches or specializations considered a priority for the economic and social development of the country to perform a period of civic service ranging from one to four years before being able to exercise an occupation or obtain employment. The branches in question were at first limited to medicine, pharmacy and dental surgery but now the only category concerned is that of doctors specializing in public health as a response to the need to bring essential specialist care to the population of isolated regions. Under section 2 of Ordinance No. 06-06 of 15 July 2006, civic service may also be performed in private sector health establishments. The Government previously indicated that civic service represents the contribution of the persons on whom it is imposed to the economic, social and cultural development of the country, adding that it is a national and moral duty of specialized doctors vis-à-vis the population groups living in the regions of the far south, the south and the High Plateau. These specialists enjoy an attractive system of compensation ranging from 100 to 150 per cent of their principal remuneration along with other advantages and, as a result, many specialists volunteer to work in these regions.

The Committee also noted the Government's indication that specialist doctors help to ensure the health protection of remote population groups, a mission that may be regarded as equivalent to responding to emergencies. It added that the question of civic service was examined at the national health meetings in June 2014, which brought together health sector stakeholders and the social partners. The Committee observed that, under sections 32 and 38 of Act No. 84-10, any refusal to perform civic service and the resignation of the person concerned without a valid reason results in that person being banned from self-employment, from setting up business as a trader, artisan or promoter of private economic investment, any offence being punishable under section 243 of the Penal Code. Similarly, under sections 33 and 34 of the Act, all private employers are required to ensure, prior to engaging any workers, that applicants are not subject to civic service or that they can produce documentation proving that they have completed it. Furthermore, any private employer who knowingly employs a citizen who has evaded civic service is liable to imprisonment and a fine. Hence, the Committee observed that although the persons required to perform civic service enjoy working conditions that are comparable to those of regular workers in the public sector (remuneration, seniority, promotion, retirement, etc.), they engage in this service under the threat of being denied access to any independent professional activity or to any form of employment in the private sector in the event of their refusal. Therefore the Committee asked the Government to take the necessary steps to repeal or amend the Act concerning civic service.

The Committee notes the lack of information on this matter in the Government's report. The Committee recalls that the Convention defines "forced or compulsory labour" as all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. Referring to its 2007 General Survey, *Eradication of Forced Labour*, the Committee emphasizes that compulsory civic service activities and other non-military national service activities should be restricted to cases of emergency or be solely performed by volunteers. As regards obligations of service in relation to training received, which sometimes apply to a narrow range of professions, in particular young doctors, dentists and pharmacists, who may be required to exercise their profession for a certain period in a post assigned to them by the authorities, the Committee has pointed out in this connection that, where such service obligations are enforced by the menace of any penalty, they may have a bearing on the observance of the forced labour Conventions (paragraph 94 and 95). Hence, by obliging specialist doctors to exercise their profession for a period of one to four years in remote regions or otherwise face the penalty of being denied access to self-employment, the provisions of Act No. 84-10 of 1984 are incompatible with the Convention. ***The Committee urges the Government to take the necessary steps to repeal or amend Act No. 84-10 of 11 February 1984 concerning civic service in order to bring it into conformity with the Convention. The Committee requests the Government to provide information on the steps taken or contemplated to abolish the compulsory character of civic service and the penalties that accompany it.***

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1969)

Article 1(a) of the Convention. Imprisonment involving compulsory labour as a penalty for expressing political views or opposition to the established political, social or economic system. Associations Act. For a number of years, the Committee has been drawing the Government's attention to the provisions of the Associations Act (No. 12-06 of 12 January 2012). It observed that section 39 of the Act provides that an association may be suspended or dissolved "in the event of interference in the internal affairs of the country or an attack on national sovereignty" and that section 46 provides that "any member or leader who continues to act on behalf of an association which is neither registered nor approved, or is suspended or dissolved" shall be liable to a fine and imprisonment of three to six months. The Committee emphasized that, on the basis of the above-mentioned provisions of Act No. 12-06, persons could be liable to

imprisonment and hence be subjected to prison labour for the reason that, in expressing certain political views or ideological opposition to the established political, social or economic system, they did not observe the restrictions on the right of association established in the Act.

The Committee notes the detailed explanations provided by the Government in its report on the procedure for the dissolution of associations. It notes the Government's indications that the penalties established by section 46 of Act No. 12-06 have a preventive purpose, seeking to dissuade any person who might wish to be active in associations that are not legally constituted or have been suspended or dissolved. Moreover, refusal to accept the founding declaration of an association whose documentation is not in conformity with the law does not deprive its founding members of their rights, including the right to hold peaceful meetings, which are simply subject to notification to the competent administrative authority. Moreover, the Committee notes that the United Nations Office of the High Commissioner for Human Rights (OHCHR), in its 2017 "Compilation on Algeria", noted that civil society organizations faced several restrictions following the adoption of the Associations Act (Act No. 12-06 of 12 January 2012). The Act provides the authorities with broad leeway to refuse to register an association (A/HRC/WG.6/27/DZA/2, paragraph 27). Referring to its 2012 General Survey on the fundamental Conventions, the Committee recalls that the Convention prohibits the use of forced or compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The activities which must be protected from punishment involving forced or compulsory labour include the rights of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views and which may also be affected by measures of political coercion (paragraph 302). *The Committee therefore requests the Government to take the necessary steps to ensure that sections 39 and 46 of the Associations Act (No. 12-06 of 12 January 2012) cannot be used to penalize persons who, through exercising their right of association, express political views or views ideologically opposed to the established political, social or economic system. The Committee also requests the Government to provide information on the application in practice of the above-mentioned provisions, to send copies of any relevant court decisions and to indicate the nature of any offences recorded and the penalties imposed.*

The Committee is raising other matters in a request addressed directly to the Government.

Argentina

Forced Labour Convention, 1930 (No. 29) (ratification: 1950)

The Committee notes the observations of the Confederation of Workers of Argentina (CTA Workers) and the General Confederation of Labour of the Argentine Republic (CGT RA), both of 1 September 2017, and the observations of the Confederation of Workers of Argentina (CTA Autonomous) of 1 and 6 September 2017, as well as the Government's replies.

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. The Committee previously noted the numerous measures taken by the Government to strengthen its legal and institutional framework to combat trafficking in persons for labour and sexual exploitation and invited the Government to pursue its efforts and to strengthen coordination between the different actors involved in combating trafficking in persons to ensure better judicial response and better protection of victims.

The Committee notes the CTA Autonomous's indication that despite legal and institutional strengthening to combat trafficking in persons, difficulties still remain in practice. It further notes that, according to the 2018 report published by the Prosecution Unit for Combating Human Trafficking and Exploitation (PROTEX), the major part of the 563 complaints of trafficking for labour exploitation received through the free national telephone helpline, in 2016 and 2017, referred to the garment and agricultural sectors (30 per cent and 28 per cent of the complaints received, respectively).

(a) Labour exploitation in the garment sector. The Committee notes the CTA Autonomous's indication concerning trafficking and labour exploitation in sweatshops, and more particularly a 2015 sweatshop fire which resulted in the death of eight workers. It notes the Government's indication that, on 30 March 2016, the persons who were found responsible for the sweatshop were condemned to 13 years of imprisonment for slave labour by the Criminal Court. The Committee further notes that, according to the CTA Autonomous, the Federal Police was informed of the existence of more than 200 sweatshops and, in 2015, 1,153 labour inspections were conducted in the Buenos Aires city in buildings where sweatshops were believed to be operating. Infractions were detected in 436 places and 286 sites were closed. It further takes note of a study on the situation of the textile workshops in the Buenos Aires city, published in December 2016 by the Ministry of Labour, Employment and Social Security, forwarded by the Government, according to which more than 70 per cent of the sewing workers are involved in sweatshops, and 70 per cent of the victims of informality, trafficking and labour exploitation in the textile workshops are migrant workers. The Committee notes the Government's indication, in its reply to the observations made by the CTA Autonomous, that training activities were provided to labour inspectors in order to help them better identify possible victims of trafficking in forced labour situations and that a specific form to be annexed to inspection reports was elaborated on the basis of the ILO forced labour indicators. The Government adds that several awareness-raising activities on sweatshops were conducted, in collaboration with the ILO, for labour inspectors between 2014 and 2017, and that a specific focus was put in 2017 on the textile workshops which resulted in the inspection of 70 workshops, out of which seven were closed.

(b) *Labour exploitation in the agricultural sector.* The Committee notes the CTA Autonomous's indication that agricultural workers are particularly exposed to trafficking in persons as a result of a high percentage of informality and numerous cases of forced labour which were identified in this sector. The CTA Autonomous adds that, as a result of the establishment of the National Register of Agricultural Workers (RENATEA) and mobile registration units which helped in registering agricultural workers in remote areas, more than 15,000 potential victims of trafficking were identified. The Committee however notes the concerns expressed by the CTA Autonomous about the dissolution of the RENATEA in 2016, which was replaced by the previous RENATRE (National Register of Agricultural Workers and Employers) from 1 January 2017. According to CTA Autonomous, while some progress was made with the RENATEA, no positive achievement was made concerning labour inspections in the agricultural sector in 2017.

Noting certain measures taken by the Government, the Committee requests it to strengthen its efforts to effectively identify and combat trafficking in persons, in particular in the garment and agricultural sectors and to continue to provide information on the concrete measures taken in this regard. It also requests the Government to provide information on the number of victims of trafficking in persons who have been identified in these sectors, disaggregated by gender and nationality.

Legal and institutional framework. The Committee previously noted the adoption of Act No. 26.842 of 2012 on the prevention and punishment of trafficking in persons and assistance to victims which simplified the definition of trafficking in persons contained in section 145bis and ter of the Penal Code. This Act provides for the creation of the Federal Council to Combat the Trafficking and Exploitation of Persons and to Protect and Assist Victims, which is the standing framework for institutional action and coordination to combat trafficking in persons, as well as of its executive committee. The Committee notes the Government's indication, in its report, that the Federal Council, which is composed of representatives from the national and provincial authorities, the General Prosecution Service, the civil society, as well as of the executive committee established in 2013, held its first meeting on 23 June 2016 and has met on a regular basis since then. It notes that five standing commissions have been established within the Federal Council to deal specifically with prevention; investigation and punishment; protection and assistance of victims; annual reporting; and monitoring of the body in charge of the seizure and confiscation of property. The Committee takes note with *interest* of the adoption of the first Biennial National Plan to Combat the Trafficking and Exploitation of Persons for 2018–20, elaborated by the executive committee of the Federal Council in collaboration with the ILO as well as other relevant actors, including judicial authorities and PROTEX. It notes that the Biennial National Plan mainly focuses on prevention; assistance to victims; prosecution; and coordination and strengthening of the institutional framework. It notes in particular that several actions are aimed at promoting public awareness-raising campaigns and capacity building of public officials, including of the federal security forces, to identify and prevent trafficking; enhancing access of victims to legal redress; and improving the collection and dissemination of statistical information on trafficking in persons through the elaboration of a national registry of data. It notes that in April 2018, public awareness-raising campaigns on trafficking in persons were elaborated by the Government, in collaboration with the ILO. ***The Committee requests the Government to provide information on the actions taken in the framework of the Biennial National Plan to Combat the Trafficking and Exploitation of Persons for 2018–20, as well as on any assessment undertaken on their impact to eliminate trafficking in persons. It further requests the Government to provide information on the activities undertaken in the framework of the Federal Council to Combat the Trafficking and Exploitation of Persons and to Protect and Assist Victims, including its five standing commissions, and the executive committee.***

(a) *Action of the General Prosecution Service.* The Committee previously noted the crucial role played by the General Prosecution Service in repressing trafficking in persons, as well as the establishment of its special unit PROTEX in 2013. The Committee notes the Government's indication that several actions were implemented by PROTEX to combat trafficking in persons. It welcomes the establishment of the synchronized complaints system for crimes of trafficking and exploitation of persons within the General Prosecution Service, provided for in the Act No. 26.842 of 2012, as well as the adoption of Resolution No. 1280/2015 approving a single protocol to better coordinate action (*Protocolo único de articulación*) on the handling of complaints related to trafficking in persons. The Committee notes that, according to the 2018 report of PROTEX, 4,296 complaints were received through the free national telephone helpline in 2016 and 2017, 86.3 per cent of which were referred to the judicial authorities. It notes the Government's statement that 75 per cent of the complaints received were processed within 48 hours. The Committee however notes that while almost 40 per cent of the complaints received through the free telephone helpline referred to sex trafficking, only 13 per cent referred to labour exploitation which may result, in PROTEX's views, from a lack of awareness concerning both indicators of forced labour situations and the availability of the free telephone helpline by the workers affected by such situations. The Committee notes that the CTA Autonomous also highlights that the low percentage of cases of trafficking for labour exploitation is a clear sign of the isolation and practical difficulty faced by such victims at the time of making complaints. ***The Committee requests the Government to continue to provide information on the number of investigations and prosecutions initiated in cases of trafficking and labour exploitation, including by PROTEX, as well as on any measures taken in the framework of the single protocol to better coordinate action on the handling of complaints related to trafficking in persons. It also requests the Government to provide information on any measures taken to identify and combat the root causes of the low number of complaints made in cases of trafficking for labour exploitation.***

(b) *Action by the police forces and allegations of corruption.* The Committee previously urged the Government to conduct investigations and ensure that appropriate and dissuasive penalties are imposed in cases of corruption and complicity of law enforcement officials in cases of trafficking. The Committee notes the Government's statement that as a result of the anonymous character of the free national helpline established in 2012, a high percentage of cases of corruption and complicity of law enforcement officials in cases of trafficking have been identified. The Government adds that 10 per cent of the complaints received by PROTEX referred to such cases, and that in some instances prison sentences were imposed. The Committee notes that, according to its 2018 report, PROTEX received 339 complaints referring to cases of complicity of law enforcement officials in cases of trafficking between 2016 and 2017. ***The Committee encourages the Government to continue to ensure that investigations are duly conducted in cases of corruption and complicity of law enforcement officials, and that appropriate and dissuasive penalties are imposed. It requests the Government to provide updated information on the number of cases registered and prosecuted, as well as the sanctions imposed.***

(c) *Action by the labour inspectorate.* The Committee previously requested the Government to continue to take measures to ensure that the labour inspectorate has sufficient human and material capacity to carry out its work effectively throughout the territory. The Committee takes due note of the adoption of Act No. 26.940 of 26 May 2014, on the promotion of registered work and prevention of labour fraud, which establishes a public registry of employers (REPSAL) which have received cases of labour violations in that regard, including cases of trafficking in persons, and provides for a Special Unit for the Inspection of Irregular Work (UEFTI), for the purpose of analysing, investigating and evaluating situations of unregistered work in sectors which are difficult to monitor and also any form of illegal subcontracting and labour and social security fraud. It notes the Government's indication that the UEFTI, which was established through Resolution No. 470/2016 of 21 July 2016 relied on video monitoring for labour inspections, mainly in remote areas. It further notes the Government's reference to the purchase of two additional utility vehicles for the labour inspection which is now composed of four mobile labour inspection units. The Committee notes that, according to the statistical information forwarded by the Government, from 2014 to 2017, training was provided to 1,558 labour inspectors and other public actors on the detection of cases of trafficking in persons and forced labour situations. The Committee notes the CTA Autonomous's indication concerning the lack of appropriate resources for the labour inspection services to effectively combat trafficking in persons. ***Recalling that labour inspection is an essential element in combating trafficking in persons for labour exploitation, the Committee encourages the Government to continue to take measures to reinforce the capacity of the labour inspection services for action, particularly in sectors where the incidence of forced labour is well known, such as the garment and agriculture sectors, and in the corresponding geographical areas. It further requests the Government to provide information on the functioning of the REPSAL, as well as on the activities undertaken by the UEFTI.***

Application of effective penal sanctions. The Committee previously noted that the total number of convictions was fairly low compared with the number of victims assisted and persons arrested and hoped that the new definition of trafficking in persons contained in Act No. 26.842 would contribute to an improved judicial response to these crimes. The Committee notes the Government's indication that a total of 225 judicial decisions on the crime of trafficking in persons were handed down of which 42 referred to labour exploitation (18.6 per cent) and 183 to sexual exploitation (81.4 per cent). It notes that 87 per cent of the judicial decisions resulted in convictions, thus representing 439 persons convicted and 1,037 victims. ***The Committee requests the Government to continue its efforts to enhance access to justice for victims of trafficking and ensure that all persons who engage in trafficking are subject to prosecutions and that dissuasive penalties are applied in practice. The Committee also requests the Government to continue to provide information on the number of proceedings initiated and convictions, as well as the nature of the penalties imposed.***

Assistance to victims. The Committee previously noted that the National Programme of Assistance and Support for Victims of Trafficking in Persons was made up of a multidisciplinary team which assists in identifying victims of trafficking and providing psychological, medical and legal assistance. It notes that, according to the statistical information provided by the Government, from 2008 to 2017, assistance was provided to 11,760 victims, as a result of the National Programme. The Committee further notes that the first National Action Plan on Human Rights for 2017–20 sets as an explicit objective to ensure the promotion and protection of human rights for victims of trafficking through the establishment of regional offices of the National Programme. The Committee notes the Government's indication that, while Act No. 26.364 of 2008 provides that the fines imposed and the proceeds of the assets seized, as a result of the identification of the trafficking in persons offences, shall be allocated to victim assistance programmes, allocation procedures to transfer the amounts of money seized are currently being implemented. It notes that the CTA Autonomous highlights the lack of appropriate social and occupational reintegration programmes for victims of trafficking, and the CGT RA points out important deficits in the assistance provided to victims and asks for the elaboration of a protocol aimed at the effective restoration of victims' rights. The Committee further notes that, in its last concluding observations, the Committee on Economic, Social and Cultural Rights expressed concern at the lack of mid- and long-term assistance measures to victims of trafficking (E/C.12/ARG/CO/4, 1 November 2018, paragraph 41). ***The Committee requests the Government to continue to reinforce the resources available to the National Programme of Assistance and Support for Victims of Trafficking in Persons, and to provide information on the establishment of any regional offices of the National Programme. It further requests the Government to provide information on the implementation of the procedures aimed at allocating the fines imposed and the proceeds of the assets seized as a result of the identification***

of the trafficking in persons offences to victim assistance programmes, and on the manner in which these funds are used. Lastly, it requests the Government to provide information on the number of victims who have been identified and have benefited from such assistance.

The Committee is raising other matters in a request addressed directly to the Government.

Australia

Forced Labour Convention, 1930 (No. 29) (ratification: 1932)

Articles 1(1), 2(1) and 2(2)(c) of the Convention. Privatization of prisons and prison labour. For a number of years, the Committee has been drawing the Government's attention to the fact that the privatization of prison labour goes beyond the express conditions provided in *Article 2(2)(c)* of the Convention for exempting compulsory prison labour from its scope. It noted the Government's reiterated view that its law and practice comply with the Convention, given that prisoners accommodated in privately operated facilities or working for private undertakings remain under the supervision and control of public authorities, and that the private sector has no rights to determine the conditions for the work of convicts, such conditions being established by the public authorities.

1. *Prison labour in privately operated prisons.* In its previous comments, the Committee noted that there were no privately operated prisons under the *Northern Territory* and *Australian Capital Territory* jurisdictions. The Committee also noted that, in *New South Wales*, the employment of convicts in correctional centres was voluntary.

As regards *Queensland*, the Committee observed that prisoners are obliged to perform work in *Queensland* under section 66 of the *Corrective Services Act 2006*, which provides that the chief executive may, by written order, transfer a prisoner from a corrective services facility to a work camp, and the prisoner must perform community service as directed by the chief executive.

The Committee notes the Government's information in its report that, in *Queensland*, under the *Corrective Services Act 2006*, it does not, nor is it authorized to, utilize any form of forced or compulsory labour. It also notes the Government's repeated statement that prisoners are not forced to participate in approved work activities. According to the Government, the work activities in which prisoners in correctional facilities participate are part of their rehabilitation and reintegration process, and frequently, prisoners seek permission to participate in such activities. The Committee also notes that, according to the 2016–17 annual report of the Department of Justice and Attorney-General, the work performed by prisoners is not limited to community services performed within the framework of work camps, which are regulated by sections 66 and 67 of the *Corrective Services Act 2006*. It also includes employment in commercial industries operating on a commercial fee-for-service basis and in service industries to maintain the self-sufficiency of the correctional system and other unpaid work (pages 24 and 122). The report on Government Services 2018 of Australia shows that, in 2016–17, 30.5 per cent of the eligible prisoners are employed in commercial industries, while 38.3 per cent of them are employed in service industries in *Queensland* (Chapter 8, table 8A.11).

As regards *South Australia*, the Committee noted that, pursuant to section 29(1) of the *Correctional Services Act 1982*, prison labour is compulsory both inside and outside correctional institutions. The Government indicated, however, that prisoners at Mt Gambier Prison (*South Australia's* only privately operated prison) apply in writing to undertake work programmes, and that prisoners in the Adelaide Pre-Release Centre voluntarily apply for outside employment with private enterprises. The Committee notes the Government's information that no legislation change has been made in this regard.

As regards *Victoria*, the Committee noted the Government's indication that prisoners working for both publicly run and privately run prisons in *Victoria* have the same rights and entitlements, and that in both cases convicts must consent to undertake work. The Committee requested the Government to provide information on how such consent is ensured. The Committee notes that there is no new information provided by the Government.

As regards *Western Australia*, the Committee noted that prison labour is compulsory under section 95(4) of the *Prisons Act*, which has been confirmed by the Western Australian Industrial Relations Commission in the case *Ireland v. Commissioner Corrective Services* (2009, WAIRC 00123, paragraph 62) and the decision of the Industrial Appeal Court in the same case (2009, WASCA 162), referring also to regulation 43 of the *Prison Regulations* and section 69 of the *Prisons Act*. The Government indicated that this provision had not been enforced, and prisoners are not forced to participate in work programmes, even in privately run prisons. The Government further indicated that there were six prisoner work camps established in regional *Western Australia*, and that the placement in such work camps was voluntary and initiated by the prisoner making a formal written application.

The Committee notes the Government's information that no changes have been made to relevant legislation regulating work activities of prisoners in *Western Australia*. However, the Committee notes that the *Prisons Procedure 302 – work camps* was issued in June 2017. According to its section 6.5.3, prisoners may apply for work camp placement, while its section 7.1 provides that the designated superintendent shall ensure that those prisoners who may be suitable for work camp placement who have not initiated an application are appropriately assessed for inclusion.

In this regard, the Committee considers that the Convention addresses not only situations where prisoners are “employed” by the private company or placed in a position of providing services to the private company, but also situations where prisoners are hired to or placed at the disposal of private undertakings but remain under the authority and

control of the prison administration. The Committee once again draws the Government's attention to the fact that the work of prisoners in private prisons or for private companies is only compatible with the Convention where it does not involve compulsory labour. To this end, the formal, freely given and informed consent of the persons concerned is required, in addition to further guarantees and safeguards covering the essential elements of a labour relationship, such as wages, occupational safety and health and social security. *In light of the above considerations, the Committee expresses its firm hope that the necessary measures will be taken, both in law and in practice in Queensland, South Australia, Victoria and Western Australia where such consent may not be required, in order to ensure that the formal, freely given and informed consent of convicts is required for work in privately operated prisons, as well as for all work of prisoners for private enterprises, both inside and outside prison premises. The Committee also requests the Government to: (i) provide information on the procedures and working conditions of prisoners employed in other prison industries in Queensland, including both commercial industries and services industries, and to provide a copy of any legislative provisions in this regard; (ii) amend section 29(1) of the Correctional Services Act 1982 of South Australia, in order to align it with indicated practice and the requirements of the Convention; (iii) indicate how the informed consent of prisoners to work for private enterprises is obtained in practice in Victoria and what measures are taken to ensure that such consent is formal and freely given; and (iv) clarify how prisoners are included in a work camp placement when they have not expressly applied for it in Western Australia.*

2. *Work of prisoners for private enterprises. Tasmania.* In its previous comments, the Committee noted that there were no privately operated prisons in *Tasmania*. However, the Committee noted that, according to section 33 of the Corrections Act 1997 of *Tasmania*, a prisoner may be directed to work within or outside of the prison premises. The Committee also noted that, pursuant to Schedule 1 (Part 2.26) of the Act, refusal to comply with such direction is considered a prison offence. In this regard, the Government stated that prisoners in *Tasmania* are able to work for private enterprises at the discretion of the Director of Prisons, and that they are consulted regarding the type of work to be undertaken and must freely consent to perform such work.

The Committee notes the Government's information that prisoners in *Tasmania* work for private enterprises on a voluntary basis as a part of their sentence-management plan, which is aimed at facilitating their employment upon release. As an added safeguard, the prisoner must apply for external leave in accordance with the Correction Act 1997 (sections 41 and 42). The Government indicates that there is no requirement for prisoners to participate in such employment and no penalty for non-participation. Moreover, all prisoners employed by a private enterprise are paid in accordance with the relevant award wages and subject to the same employment conditions as all other employees. *While taking due note of the Government's statement that prisoners are not forced to work for private undertakings in practice, the Committee requests the Government to amend section 33 and Schedule 1 (Part 2.26) of the Corrections Act 1997, in order to align it with indicated practice.*

The Committee is raising other matters in a request addressed directly to the Government.

Belarus

Forced Labour Convention, 1930 (No. 29) (ratification: 1956)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the detailed discussion which took place in the Conference Committee on the Application of Standards in May–June 2018, concerning the application by Belarus of the Convention. The Committee notes the observation of the Belarusian Congress of Democratic Trade Unions (BKDP), received on 31 August 2018, and the observations of the International Trade Union Confederation (ITUC), received on 1 September 2018.

Articles 1(1), 2(1) and 2(2)(c) of the Convention. Compulsory labour imposed by the national legislation on certain categories of workers and persons. 1. *Financial penalties imposed on unemployed persons.* In its previous comments, the Committee noted the adoption of Presidential Decree No. 3 of 2 April 2015 on the prevention of dependency on social aid, which provides that citizens of Belarus, foreign citizens and stateless persons permanently residing in Belarus who have not worked for at least 183 days in the last year, and thus have not paid labour taxes for the same period, are required to pay a special levy to finance government expenditure. Non-payment or partial payment of such a levy entails administrative liability in the form of a fine or administrative arrest with compulsory community service (sections 1, 4 and 14 of the Decree). The Government indicated that Decree No. 3 was suspended following the President's instruction, and that a new conceptual framework was being developed to amend the Decree, which shifts the focus from fiscal measures to the stimulation and promotion of employment and the reduction of illegal employment. A draft legislative text in this regard was expected to be completed by 1 October 2017. The Committee also noted that the Government had provided assurances to the Technical Advisory Mission of the ILO to Belarus in June 2017 that public consultation, including with the social partners, would be conducted during the development of the amended version of Decree No. 3. The Committee further noted the observation of the BKDP that, in the proposal of a new version, the Government again intended to implement the principle "if you do not work then you are to pay for services".

The Committee notes that, in its conclusions adopted in June 2018, the Conference Committee requested the Government to provide to the Committee of Experts information confirming the amendment of Presidential Decree No. 3 of 2015 by Presidential Decree No. 1 of 2018, including information related to the operation of this new framework in law and practice.

The Committee notes from the observations of the BKDP that Presidential Decree No. 1 of 2018 was adopted on 25 January 2018 to amend Presidential Decree No. 3 of 2015. As a result, the “tax on parasitism” was cancelled, while a new type of financial penalty was introduced. According to paragraph 5 of the amended Decree, the employable citizens included in the unemployment list are to pay for public services at a price to ensure full reimbursement of economically justified costs of their rendering. The list is compiled by the standing commissions (which are established to coordinate the implementation of Decree No. 3 as amended), and approved by local authorities. This mechanism is aimed at stimulating “able-bodied” unemployed citizens to take legal employment. The BKDP states that “able-bodied” unemployed citizens are defined broadly to include, for example, housewives who bring up one or two children over the age of 7. Citizens working abroad also have to apply to the standing commission to be excluded from the list by providing documents certifying their work abroad. The BKDP emphasizes that an appeal against the decisions of the standing commissions is not possible.

The Committee also notes that, according to the observations of the ITUC, the revised Decree is similar to its previous version, which states that all “able-bodied” unemployed citizens will have to pay for a number of social and public services that are normally heavily subsidized by the State. According to the Ministry of Labour, approximately 250,000 persons are targeted by the new framework established by Decree No. 3 of 2015 as amended in 2018.

The Committee notes the Government’s information in its report that, on 27 January 2018, Presidential Decree No. 1 of 2018 entered into force and introduced substantive changes into Decree No. 3, which was subsequently redrafted under a new name “Presidential Decree No. 3 of 2 April 2015 on the promotion of employment”. The Decree repeals provisions relating to the payment by unemployed citizens who are able to work of tax to fund public spending and provisions imposing administrative liability for the non-payment of that tax. The main objective of the new Decree is to create the optimal conditions for promoting employment at the local level, including by strengthening the labour market, supporting entrepreneurship, encouraging self-employment, and working on a case-by-case basis with citizens who are unemployed or engaged in the shadow economy but willing and able to make a living through legal means. For this purpose, 146 standing commissions will be set up and run by district or municipal executive committees or local administrations, to coordinate employment promotion efforts in accordance with Decree No. 3. These standing commissions will include members of the parliaments, specialists from the labour, employment and social protection authorities, the housing and public utilities sector, internal affairs bodies and other divisions of the local administration, as well as representatives of voluntary associations. In the first half of 2018, 94,100 persons received employment assistance, and 3,800 persons were sent on training related to professions and trades for which there is a high demand.

The Government also indicates that, according to paragraph 5 of the Decree, unemployed citizens who are able to work, will have to pay for various public services at a higher price which ensures the full recovery of all reasonable costs associated with their provision. To establish procedures for assigning “unemployed” status, Council of Ministers Decision No. 239 of 31 March 2018 approves the Regulations for classifying able-bodied working-age citizens as unemployed, and creating and operating a database of such persons. Moreover, Council of Ministers Decision No. 314 of 14 April 2018 sets out the types of services to be charged at a higher price, including utilities such as hot water (applicable as of 1 January 2019), as well as gas supply and heating (applicable as of 1 October 2019). The Government states that decisions relating to whether citizens should have to pay for such services on a cost-recovery basis are to be taken by the standing commissions, after the implementation of preliminary work with those individuals with a view to providing them with employment assistance and establishing whether they are living in a difficult situation. ***While noting that Decree No. 3 of 2015 was amended in 2018 with a view to promoting legal employment, the Committee requests the Government to take the necessary measures to ensure that the implementation of the Decree in practice does not go beyond the purpose of employment promotion, and that no excessive penalties are imposed on persons already living in a difficult situation in order to oblige them to perform work. The Committee also requests the Government to continue providing information on the application of the Decree in practice, including the price differences related to various public services, as well as the categories and the number of persons who are enlisted as “able-bodied” unemployed and who have to pay public services at a higher price. Lastly, the Committee requests the Government to provide a copy of relevant regulations implementing Decree No. 3 of 2015 as amended in 2018.***

2. *Persons interned in “medical labour centres”.* The Committee previously noted the adoption of Law No. 104-3 of 4 January 2010 on the procedures and modalities for the transfer of citizens to medical labour centres and the conditions of their stay, which provides that citizens suffering from chronic alcoholism, drug addiction or substance abuse who have faced administrative charges for committing administrative violations under the influence of alcohol, narcotics and psychotropic, toxic or other intoxicating substances may be sent to medical labour centres as a result of a petition filed in a court of law by the head of internal affairs (sections 4–7 of the Law). Such persons are interned in medical labour centres for a period of 12 to 18 months and have an obligation to work. The Government indicated that not everyone who suffers from these problems can be sent to the centres, but only those who repeatedly (three or more times in one year) have disturbed public order and been found in a state of intoxication from alcohol, narcotics or other intoxicating

substances. As a further condition, the individuals concerned must have received a warning after committing these offences that he or she might be sent to such a centre but has nevertheless committed administrative offences for similar violations within a year of that warning. The Government also indicated that persons who are sent to medical labour centres have to undergo a medical examination to determine their level of addiction, and then receive medical and social rehabilitation services, including medical and psychological treatment, personal development and self-education, as well as support for the re-establishment and maintenance of the family relationship. Moreover, employment is considered as one of the most important tools for achieving social reintegration. For this purpose, vocational guidance, training and retraining, as well as skills development are provided in the medical labour centres. The Government further stated that the concerned persons are placed in employment in consideration of their ages, capacity for work, health status, skills and qualifications. They are also paid and granted annual and other types of leave in accordance with the labour law. The types of work carried out by such individuals included wood processing, agricultural work and public cleaning.

The Committee notes that, in its conclusions adopted in June 2018, the Conference Committee requested the Government to continue to provide information on the implementation of Law No. 104-3 in practice, including the number of persons who are placed in medical centres and the compulsory work that forms part of this rehabilitation.

The Committee notes from the observations of the BKDP that the Occupational Therapy and Rehabilitation Centres (so called “medical labour centres”) cannot be considered as medical centres where rehabilitation services are provided. According to the BKDP, human rights defenders evaluate the system of medical labour centres as detention or imprisonment outside the framework of criminal prosecution, not in connection with the commission of a crime. Medical measures are provided purely on a voluntary basis, while work is imposed as an obligation. The concerned person may be placed in a disciplinary room for 10 days if he or she refuses to work. The Committee also notes from the observations of the ITUC that Law No. 104-3 continues to be applied in practice resulting in 4,000–5,000 persons suffering from substance addiction to be exposed to forced labour. Section 16 of Law No. 104-3 allows the use of physical force in order to coerce interned persons to perform labour. Moreover, both the BKDP and the ITUC indicate that, the standing commissions, which are established to coordinate the implementation of Decree No. 3 of 2015 as amended in 2018, are also entitled to make decisions on the need to send citizens leading an antisocial way of life to these medical centres.

The Committee notes the Government’s information that persons who have repeatedly (three or more times in one year) committed a breach of peace while drunk or in a state induced by narcotics or other intoxicating substances may be sent to medical labour centres by court order for 12 months. A court may also decide to extend or curtail a person’s stay by a period of up to six months. In addition, persons who have to reimburse the State expenditure on the maintenance of children placed under state care, and persons who have committed disciplinary offences at work twice in one year as a result of using alcohol or other intoxicating substances and who have been warned of a possible transfer to a medical labour centre but commit an offence again within one year after receiving that warning, may be sent to such centres. The Committee also notes the Government’s information that in 2017, 6,723 persons were sent to medical labour centres (compared to 8,081 in 2016). The average monthly number of persons assigned to work in medical labour centres in 2017 was 4,812. Moreover, 169 persons at medical labour centres ceased work without authorization and 13 persons refused to work. The Government also indicates that, since the entry-into-force of Law No. 104-3 in 2010, 2,945 persons have received vocational training, retraining and skills development at medical labour centres, and 876 person have benefited from ongoing vocational on-the-job training programmes. ***The Committee therefore requests the Government to continue providing information on the implementation of Law No. 103-4 in practice, including the number of persons who are placed in the medical labour centres by court order following their repeated commission of breach of peace. The Committee also requests the Government to continue to provide information on other persons who may also be sent to such medical labour centres, including those who have to reimburse the state expenditure of child care and those who repeatedly committed disciplinary offences at work, by indicating whether they are sent to such centres by a judicial decision, as well as the number of persons concerned.***

The Committee is raising other matters in a request addressed directly to the Government.

Belize

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1983)

The Committee notes with **deep concern** that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2011.

Article 1(c) and (d) of the Convention. Penalties involving compulsory labour as a punishment for breaches of labour discipline or for having participated in strikes. For many years, the Committee has been referring to section 35(2) of the Trade Unions Act, under which a penalty of imprisonment (involving an obligation to perform labour, by virtue of section 66 of the Prison Rules) may be imposed on any person employed by the Government, municipal authority or any employer in charge of supplying electricity, water, railway, health, sanitary or medical services or communications or any other service that may, by proclamation, be declared by the Governor to be a public service, if such person wilfully and maliciously breaks a contract of service, knowing or having reasonable cause to believe that the probable consequences will be to cause injury or danger or grave inconvenience to the community. The Committee has also noted that section 2 of the Settlement of Disputes (Essential Services) Act, Statutory Instrument No. 92 of 1981, declared the national fire service, postal service, monetary and financial services (banks, treasury, monetary authority), airports (civil aviation and airport security services) and the port authority (pilots and

security services) to be essential services, and Statutory Instrument No. 51 of 1988 declared the social security scheme administered by the Social Security Branch an essential service.

The Committee has recalled in this respect that the imposition of sanctions involving compulsory labour as a punishment for breaches of labour discipline or for having participated in strikes is incompatible with the Convention. It has noted that section 35(2) of the Trade Unions Act refers not only to injury or danger but, alternatively, to grave inconvenience to the community, and applies not only to essential services, but also to other services, such as most employment under the Government or a municipal authority and most banking, postal and transport services.

The Government indicates in its report that one of the main tasks of the newly revived Labour Advisory Board is the revision of the national legislation, and that the Board has regrouped the legislation under revision into six topics, including trade unions' rights. The Government also states that, although trade unions' legislation has not yet been covered, the intention is to revise it in order to bring it into conformity with the international labour Conventions, and that the Committee's concern regarding section 35(2) of the Trade Unions Act will definitely be taken into consideration. *While taking due note of this information, the Committee trusts that the process of the revision of the Trade Unions Act will be completed in the near future, so as to ensure that no sanctions involving compulsory labour could be imposed as a punishment for breaches of labour discipline or for peaceful participation in strikes.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Plurinational State of Bolivia

Forced Labour Convention, 1930 (No. 29) (ratification: 2005)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. The Committee previously noted the adoption of the Organic Law against trafficking and smuggling of persons (Act No. 263 of 31 July 2012) and the implementing regulations (Decree No. 1486 of 6 February 2013) which define the fundamental components of trafficking in persons and provide for penalties.

The Committee notes the adoption of the Plurinational Policy against trafficking and smuggling of persons for 2013–17 and the National Action Plan for 2015–19. The Committee also notes the Government's general indication, in its report, that, in the framework of the Multisectoral Plan for the integral development of the fight against trafficking and smuggling of persons for 2016–20, several actions are being implemented to prevent, control and sanction trafficking in persons, while providing support and promoting the reintegration of victims. The Committee notes that, as highlighted in the National Action Plan, Bolivia is principally a source country for trafficking for purposes of both sexual and labour exploitation within the country, mainly in the sugar cane and nut harvesting industries, domestic work, mining and begging. A significant number of Bolivians are also subjected to trafficking for labour exploitation abroad, mainly in Argentina, Brazil and Chile, in sweatshops, agriculture, textile factories and domestic work. The Committee refers, in this regard, to its last observation on the application of the Domestic Workers Convention, 2011 (No. 189), where it noted that, according to studies published by the Organization of American States (OAS), many victims of trafficking are Bolivian women who are taken to other countries as domestic workers and sometimes become victims of labour exploitation. It notes that, in September 2018, the La Paz Departmental Human Rights Ombudsperson (*Defensoría del Pueblo*) indicated that during the last few years the number of trafficking victims increased by 92.2 per cent, with 70 per cent of the victims being girls and young women aged from 12 to 22 years. According to its 2016 Global Report on Trafficking in Persons, the United Nations Office on Drugs and Crime (UNODC) indicated that between 2012 and 2015, 1,038 persons were prosecuted for trafficking but only 15 of them were convicted. The Committee notes that, in its last annual reports, the Public Prosecutor indicated that 701 cases of trafficking were registered in 2016 and 563 cases in 2017, but that no information is available on the number of persons convicted or judicial decisions handed down in that respect. The Committee further notes that, in its last concluding observations, the Committee on the Elimination of Discrimination Against Women (CEDAW) of the United Nations was concerned about the high and growing number of cases of trafficking in human beings, in particular women and children in border areas, as well as of cases of internal trafficking of indigenous women for purposes of forced prostitution, in particular in areas in which major development projects are being implemented. The CEDAW recommended to undertake an assessment of the situation of trafficking in Bolivia as a baseline for measures to address trafficking and to improve the collection of data on trafficking disaggregated by sex, age and ethnicity (CEDAW/C/BOL/5-6, 28 July 2015, paragraphs 20 and 21). The Committee notes with **concern** the low number of convictions regarding trafficking in persons, despite the significant number of cases brought to justice. *It accordingly urges the Government to strengthen its efforts to ensure that all persons who engage in trafficking are subject to prosecutions and that in practice, sufficiently effective and dissuasive penalties are imposed. In this regard, it requests the Government to provide information on the number of criminal proceedings initiated, persons convicted and penalties imposed on the basis of Act No. 263 against trafficking and smuggling of persons. The Committee also requests the Government to provide information on the concrete measures taken to effectively combat trafficking in persons, including through awareness-raising activities and enhanced access to justice, in the framework of the National Action Plan for 2015–20 and the Multisectoral Plan for 2016–20. Lastly, noting the Government's statement that several actions are being implemented to support victims of trafficking, the Committee requests the Government to provide information on the concrete measures taken to protect victims of trafficking and to facilitate their access to immediate assistance and remedies, as well as the number of victims who have been identified and have benefited from such assistance.*

The Committee is raising other matters in a request addressed directly to the Government.

Botswana

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)

Article 1(a) of the Convention. Sanctions involving the obligation to work as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. The Committee previously noted that sentences of imprisonment, involving compulsory prison labour pursuant to section 92 of the Prisons Act, Cap 21:03 of 1979, may be imposed under sections 47 and 48 of the Penal Code on any person who prints, makes, imports, publishes, sells, distributes or reproduces any publication prohibited by the President “in his absolute discretion” as being “contrary to the public interest”. Similar sentences may be imposed under section 51(1)(c), (d) and (2) concerning seditious publications. Sentences of imprisonment may also be imposed under sections 66–68 of the Penal Code on any person who manages, or is a member, or in any way takes part in the activity of an unlawful society, particularly of a society declared unlawful as being “dangerous to peace and order”. In this connection, the Committee observed that the above provisions are worded in terms broad enough to lend themselves to application as a means of punishment for the expression of views and, in so far as they are enforceable with sanctions involving compulsory labour, they are incompatible with the Convention. The Committee therefore requested the Government to take appropriate measures, on the occasion of the revision of the Penal Code, to bring the above provisions into conformity with the Convention.

The Committee notes with *regret* the Government’s statement, in its report, that no amendment to the Penal Code is planned. It wishes to recall once again that *Article 1(a)* of the Convention prohibits punishment by penalties involving compulsory labour, including compulsory prison labour, of persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. *The Committee expresses the firm hope that appropriate measures will be taken without delay, in both law and practice, to ensure that no penalties involving compulsory labour may be imposed for the peaceful expression of political views opposed to the established system, either by restricting the scope of application of these provisions to situations of violence, or by repealing sanctions involving compulsory prison labour. The Committee requests the Government to provide information on the developments made in this regard.*

Article 1(c). Punishment for breaches of labour discipline. The Committee previously noted that section 43(1)(a) of the Trade Disputes Act (No. 15 of 2004) punishes with imprisonment involving compulsory prison labour any wilful breach of a contract of employment by an employee who is acting either alone or in combination with others, if such breach affects the operation of essential services. The Committee observed that the list of essential services specified in the Schedule to the Trade Disputes Act includes services such as the Bank of Botswana, railway services, and transport and telecommunications services necessary to the operation of all these services, which did not seem to meet the criteria of essential services in the strict sense of the term.

The Committee notes the Government’s indication that the list of essential services is going to be reviewed by a task force which has been established for this purpose, within the framework of the ongoing labour law review process. The Committee also notes, referring to its comments made in 2017 under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), that the Trade Disputes Act has been amended in 2016, in response to new developments and the specific circumstances in the country. It notes that the list of essential services was thus expanded to include teaching services, veterinary services and diamond sorting, cutting and selling services. Referring to its General Survey of 2012 on the fundamental Conventions (paragraph 311), the Committee points out that essential services should be understood in the strict sense of the term, that is services, the interruption of which may endanger the life, personal safety and health of the whole or part of the population, and observes that the aforementioned essential services do not seem to meet the criteria of essential services in the strict sense of the term. *The Committee therefore expresses the firm hope that the Government will take the necessary measures, in the framework of the current labour law review process, to ensure that no prison sentences involving compulsory labour are imposed as a punishment for breaches of labour discipline affecting the operation of essential services that do not meet the criteria of essential services in the strict sense of the term. It requests the Government to provide information on the progress made in this regard.*

Burundi

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1963)

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 30 August 2018.

Article 1(a) of the Convention. Imprisonment involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. In its previous comments, the Committee noted the observations of COSYBU, which referred to judicial proceedings instigated against journalists in private radio stations, restrictions on free and independent demonstrations and the arrest of a human rights activist. The Committee also noted the possibility referred to by the Government of amending Ministerial Order No. 100/325 of 15 November 1963 concerning the organization of prisons, section 40 of which establishes the obligation to work for convicted prisoners, in order to exclude political prisoners from its scope. The Committee also noted the Government’s indication that this Order was repealed and replaced by Act No. 1/026 of 22 September 2003 issuing the

prison regulations. However, the Committee noted that, under section 25 of Act No. 1/026, work remains compulsory for all prisoners. The Committee asked the Government to take the necessary steps to bring the legislation into conformity with the Convention.

The Committee takes note of the Government's indication that it duly notes all these relevant comments and undertakes to harmonize its national legislation with the Convention.

The Committee notes that Decree-Law No. 1/6 of 8 April 1981 reforming the Penal Code was repealed by Act No. 1/05 of 22 April 2009 amending the Penal Code. The Committee notes that sentences of imprisonment involving compulsory labour may be imposed in circumstances which fall into the scope of the Convention:

- section 600: any person who, for propaganda purposes, publicly distributes, circulates or displays pamphlets, bulletins or flags of foreign origin or inspiration that are damaging to the national interest, shall be liable to penal servitude of two months to three years and/or a fine of 50,000 to 100,000 Burundi francs (BIF); and any person who, for propaganda purposes, has in his/her possession such bulletins or flags with a view to distribution, circulation or display shall be liable to the same penalties;
- section 601: any person who receives directly or indirectly, in any form or on any basis from a foreign person or organization, gifts, presents, loans or other advantages, intended or used wholly or partially to conduct or remunerate an activity or propaganda in Burundi such as to undermine the due loyalty of citizens towards the State and institutions in Burundi, shall be liable to penal servitude of one to five years and/or a fine of BIF50,000 to BIF200,000.

Moreover, the Committee observes that, in the report of 13 November 2017 (compilation on Burundi) of the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Special Rapporteur on human rights defenders noted many cases in which human rights defenders and journalists had been killed, assaulted, arbitrarily arrested, detained or defamed in the media. The Committee also observes that, when the OHCHR visited the 11 prisons and police holding cells in Burundi, it observed overcrowding as a result of the waves of arrests of protesters opposed to a new term for the President, members of the opposition and civil society. The Special Rapporteur also observed that the Press Act of 4 June 2013 curtails freedom of expression since it provides for a broad exception to the right of journalists not to reveal their sources in cases involving national security, public order, defence secrets and the physical or mental integrity of one or more persons. According to the Special Rapporteur, freedom of expression remained restricted, and activities of media critical of the Government had been suspended, while independent journalists had been subjected to arbitrary arrest and enforced disappearance (A/HRC/WG.6/29/BDI/2, paragraphs 20, 22, 32, 35 and 36).

While taking note of the above information, the Committee notes with **concern** the continued existence of the provisions of the laws (the Penal Code and the Press Act) which can be used to restrict the exercise of the freedom to express political or ideological views (orally, through the press or via other communication media) and which result in the imposition of penalties involving compulsory prison labour. In this regard, the Committee recalls that *Article 1(a)* of the Convention prohibits the use of compulsory labour, including compulsory prison labour, as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system without recourse to violence. The Committee emphasizes that the range of activities which must be protected, under this provision, from punishment involving compulsory labour includes the freedom to express political or ideological views (which may be exercised orally, through the press or via other communication media) (see 2012 General Survey on the fundamental Conventions, paragraph 302). ***The Committee therefore urges the Government to take the necessary steps, in law and in practice, to ensure that no penalty involving compulsory labour may be imposed for the peaceful expression of political views or views ideologically opposed to the established political, social or economic system, for example by clearly restricting the scope of application of these provisions to situations involving the use of violence or incitement to violence, or by abolishing the penalties that entail compulsory labour. The Committee requests the Government to provide information on all progress made in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Cambodia

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2018, and the detailed discussion which took place in the Conference Committee on the Application of Standards in May–June 2018, concerning the application by Cambodia of the Convention.

Article 1(a) of the Convention. Sanctions involving the obligation to work as a punishment for the expression of political views or views ideologically opposed to the established political, social or economic system. In its previous comments, the Committee noted that, pursuant to section 68 of the Law on Prisons of 2011, sanctions of imprisonment involve an obligation to work. The Committee also noted that, according to section 42 of the Law on Political Parties of

2017, various offences related to the administration or management of a political party which has been dissolved, or whose activities have been suspended by a court, or whose registration has been refused, are punishable with sanctions of imprisonment for a term of up to one year, involving compulsory labour. The Government stated that no political party had been dissolved by a court decision.

The Committee further noted that, although the offences of public defamation and insult (sections 305–309) are punishable with fines only under the Penal Code of 2009, the application of those provisions in practice led to the imposition of penalties of imprisonment. Moreover, several sections under the Penal Code of 2009 providing for a penalty of imprisonment may still be used in situations covered by *Article 1(a)* of the Convention, including: (i) sections 494 and 495 on incitement to disturb public security by speech, writing, picture or any audiovisual communication in public or to the public; (ii) section 522 on publication of commentaries intended to unlawfully coerce judicial authorities and; (iii) section 523 on discrediting judicial decisions. Additionally, the legislation on cybercrime was being drafted.

Moreover, the Committee expressed its deep concern over the detentions of, and prosecutions against members of opposition parties, NGO representatives, trade union members and human rights defenders since 2014, including the arrest of and the prosecution against several senior member of the Cambodia National Rescue Party (CNRP) in 2016 and 2017.

The Committee notes from the observations of the ITUC that the practice of criminalizing the expression of different political and ideological speech and opinion is normalized by the Government, coupled with legislation that enables it to do so. Under the Penal Code, the application of some provisions in practice may fall within the scope of the Convention. For example, section 311 criminalizes the public denunciation of facts known to be false that is addressed to competent authorities, such as a judge, judicial police officer or an employer, or a person with power to refer the denunciation to the competent authority. Such offence is punishable by imprisonment of between one month to one year and fines of 100,000–2,000,000 Cambodian riels (KHR) (about US\$24–US\$487) pursuant to section 312. Moreover, section 502 criminalizes the use of words, gestures, writings, sketches or objects which undermine the dignity of persons. Particularly, if the insult is against a public official or a holder of public elected office, the offence is punishable by imprisonment of one to six days and fines of KHR1,000–100,000 (about US\$0.24–US\$24). In addition, the amendment to the Constitution, which was passed on 15 February 2018, further undermines the fundamental freedoms in the country, along with other changes to domestic law, including the Penal Code. The new crime of insulting the King, pursuant to section 445 of the amended Penal Code, is punishable by up to six months in prison and fines of up to KHR10,000,000 (US\$2,495) for speeches, gestures, writings, paintings or public meetings that affect the dignity of the monarch. The ITUC also indicates that two persons have been arrested under section 445. On 14 May 2018, Khean Navy, the principal of a Kampong Thom primary school, was arrested for insulting the King after he had blamed the monarch for the dissolution of the CNRP in 2017 and the loss of Khmer land. On 21 May 2018, another person in Siem Reap was charged for sharing a post on Facebook that allegedly insulted the King.

The Committee notes that, in its conclusions adopted in June 2018, the Conference Committee urged the Government to take measures in law and practice to ensure that no penalties involving forced or compulsory labour may be imposed in compliance with the Convention, including the amendment of existing legislation that permits compulsory labour. It also called on the Government to avail itself of ILO technical assistance to address this recommendation.

The Committee notes the Government's information in its report that the Law on Prisons of 2011 was adopted in accordance with a wide range of international standards, and that prisoners are required to perform labour for the purposes of education, reformation, rehabilitation and reintegration into society. The Government states that the Convention cannot be interpreted alone without any reference to the Forced Labour Convention, 1930 (No. 29), and that its application shall not be carried out with any special agenda in favour of any particular group. The Government also indicates that, under Cambodian laws, there is no penalty imposed for the peaceful expression of political views, and there are no prisoners convicted for their peaceful expression of political views. Consequently, no punishment involving compulsory labour is imposed in situations covered by *Article 1* of the Convention. The Government further indicates that, regarding incitement, sections 494 and 495 of the Penal Code only provide for penalties of imprisonment (involving compulsory labour) for acts directly inciting the commission of a felony or the commission of any act gravely disturbing public security. Section 522 provides for penalties of imprisonment for the publication, prior to the final decision of the court, of any commentaries aimed at putting pressure on the court where a law suit is filed, in order to influence the decision of the court. The purpose of this section is to ensure judicial independence. Similarly, section 523 aims at protecting the country and its institutions from danger caused by acts of criticisms as stipulated therein. Lastly, the Government states that a copy of the Law on Cybercrime will be provided to the Committee once adopted.

The Committee notes that, according to a news release of the Office of the High Commissioner for Human Rights (OHCHR) of the United Nations (UN) of 30 April 2018, the main opposition, the CNRP, was dissolved in November 2017. The leader of the dissolved CNRP, Kem Sokha, who was detained in September 2017, remains in prison on treason charges related to comments he made in 2013 about his grass-roots political strategy to challenge the current Government. Many other CNRP members and supporters have also been imprisoned, along with former leaders of other political parties, including Nhek Bun Chhay of the Khmer National United Party, and Soun Sereyrotha of the Khmer Power Party.

The Committee also notes that, on 11 May 2018, the spokesperson for the UN High Commissioner for Human Rights expressed disappointment at the decision by Cambodia's Court of Appeal on 10 May 2018 to uphold the "insurrection" conviction of 11 CNRP members and supporters, who were originally sentenced on 21 July 2015 to

between seven and 20 years in prison in relation to violence during a demonstration at Phnom Penh's Freedom Park on 15 July 2014. The spokesperson stated that no evidence was produced during the trial or appeal to link any of the 11 accused persons with violence, or the charges of "insurrection" defined in laws as "collective violence liable to endanger the institutions of the Kingdom or violate the integrity of the national territory". None of the injured complainants or video recordings of the incident that were presented as evidence identified any of the accused persons as having undertaken, incited or guided any violent acts. Moreover, the Committee notes that, on 20 February 2018, the UN Special Rapporteur on the human rights situation in Cambodia, and the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, expressed their grave concern about changes to Cambodia's Constitution, along with other changes to domestic law including a lèse-majesté provision in the Penal Code making it illegal to insult the monarchy.

In this regard, the Committee considers that, although the Convention was designed to supplement Convention No. 29, the exception in respect of prison labour laid down in *Article 2(2)* of Convention No. 29 "for the purposes of this Convention" does not automatically apply to Convention No. 105. Consequently, with regard to the exemption of prison labour, if a person has to perform compulsory prison labour because she or he has expressed particular political views, the situation is covered by *Article 1(a)* of the Convention. The Committee observes in this regard that, while convict labour exacted from common offenders convicted, for example, of robbery, kidnapping, bombing or numerous other offences, is intended to reform or rehabilitate them, the same need does not arise in the case of persons convicted for their opinions (see 2012 General Survey on the fundamental Conventions, paragraph 300).

The Committee therefore **deplores** the imprisonment (involving compulsory prison labour) of leaders, members and supporters of the CNRP, which was dissolved in November 2017, for their political views. It must also express its **deep concern** at the adoption of amendments to the Penal Code which criminalize criticism of the King. The Committee once again recalls that restriction on fundamental rights and liberties, including freedom of expression, have a bearing on the application of the Convention if such restrictions are enforced by sanctions involving compulsory prison labour. The Committee draws the Government's attention to the fact that legal guarantees of the rights to freedom of thought and expression, freedom of peaceful assembly, freedom of association, as well as freedom from arbitrary arrest, constitute an important safeguard against the imposition of compulsory labour as a punishment for holding or expressing political or ideological views, or as a means of political coercion or education (see General Survey on the fundamental Conventions, 2012, paragraph 302). ***The Committee therefore once again urges the Government to take immediate measures to ensure that no penalties involving compulsory labour, including compulsory prison labour, may be imposed for the peaceful expression of political views opposed to the established system, both in law and in practice. In this regard, the Committee requests the Government to ensure that section 42 of the Law on Political Parties as amended in 2017, as well as sections 494, 495, 522 and 523 of the Penal Code of 2009 are amended, by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. It also requests the Government to take the necessary measures to ensure that the application of the relevant provisions in the Penal Code does not lead in practice to punishment involving compulsory labour in situations covered by Article 1(a) of the Convention. The Committee further requests the Government to provide a copy of the amendments to the Penal Code in 2018 which criminalize criticism of the King, and to provide information on its application in practice, including any prosecutions, convictions and penalties imposed in this regard. Lastly, it requests the Government to provide information on any progress made regarding the adoption of the Law on Cybercrime, and to provide a copy once adopted. The Committee encourages the Government to avail itself of ILO technical assistance in order to bring its law and practice into full compliance with the Convention.***

The Committee is raising other matters in a request addressed directly to the Government.

Chad

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes with **regret** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Article 2(2)(a) of the Convention. Work of general interest imposed in the context of compulsory military service. For many years, the Committee has been requesting the Government to take measures to amend the legislation on compulsory military service to ensure its conformity with *Article 2(2)(a)* of the Convention. The Committee noted previously that, according to section 14 of Ordinance No. 001/PCE/CEDNACVG/91 reorganizing the armed forces within the framework of compulsory military service, conscripts who are fit for service are classified into two categories: the first, the size of which is determined each year by decree, is incorporated and compelled to perform active service; the second remains at the disposal of the military authorities for two years and may be called upon to perform work of general interest by order of the Government. However, to be excluded from the scope of the Convention and not considered to be forced labour, any work or service exacted in virtue of compulsory military service laws must be of a purely military character. In its report, the Government indicates that it will take the necessary measures to bring the provisions of section 14 of Ordinance No. 001/PCE/CEDNACVG/91 into conformity with the Convention. ***The Committee takes due note of this information and hopes that the provisions of section 14 of the Ordinance reorganizing the armed forces of 1991 will be amended in the very near future so as to ensure that work exacted within the framework of compulsory military service is of a purely military character.***

Article 2(2)(c). Work imposed by an administrative authority. For many years, the Committee has been drawing the Government's attention to the need to amend or repeal section 2 of Act No. 14 of 13 November 1959 authorizing the Government

to take administrative measures for the relocation, internment or expulsion of persons whose activities constitute a danger for public order and security, under which persons convicted of penal offences involving prohibition of residence may be used for work in the public interest for a period, the duration of which is to be determined by order of the Prime Minister. This provision allows the administrative authorities to impose work on persons subject to a prohibition of residence once they have completed their sentence. The Committee notes the Government's indication that it will take the necessary measures to amend or repeal section 2 of Act No. 14 of 1959 referred to above. *Taking into account the fact that this matter has been the subject of comments by the Committee for many years and that the Government has already referred in the past to a draft text to repeal this provision, the Committee trusts that the Government will indicate in its next report the progress achieved in this respect.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Colombia

Forced Labour Convention, 1930 (No. 29) (ratification: 1969)

The Committee notes the joint observations of the International Organisation of Employers (IOE) and the National Employers Association of Colombia (ANDI), received on 30 August 2017, the observations of the General Confederation of Labour (CGT), received on 31 August 2017, and the joint observations of the Confederation of Workers of Colombia (CTC) and the Single Confederation of Workers of Colombia (CUT), received on 1 September 2017.

The Committee takes note of the signing, in October 2018, of the Decent Work Pact through which the Government, employers and workers commit themselves, among other things, to contributing to the eradication of child labour and forced labour.

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. In its previous comments, the Committee noted the Government's commitment to combating trafficking in persons particularly through: Act No. 985 of 2005 on measures to combat trafficking in persons and protect victims; the comprehensive national strategy against trafficking in persons covering prevention, victim protection, international cooperation, and police and judicial investigation; the efforts made by the Inter-institutional Committee to Combat Trafficking in Persons; and the establishment of units within the National Police and the Ministry of the Interior specialized in combating trafficking. The Committee encouraged the Government to continue taking measures to combat the complex phenomenon of trafficking in persons, which is further complicated by the fact that Colombia is a departure, transit and destination country for trafficking and that a large number of persons have been displaced as a consequence of the internal armed conflict.

The Committee notes the detailed information supplied by the Government on the steps taken to implement the four prongs of the national strategy. In this regard, the Committee notes that a new strategy, developed by the Inter-institutional Committee, has been adopted for the 2016–18 period (Decree No. 1036 of 2016). This strategy is the result of a participative process to which the different actors involved in combating trafficking have contributed. The strategy is based on six cross-cutting pillars and seven lines of action. Decree No. 1036 also establishes a Human Trafficking Observatory, mandated to produce and collect reliable and recent data on trafficking in persons that contribute to a better understanding of the phenomenon and the development of effective public policies in that area.

With specific regard to victim protection, the Committee notes the adoption of Decree No. 1066 of 2015, one chapter of which describes in detail the nature of the protection and assistance to be provided to victims and establishes the procedures and formalities to be implemented by the authorities in this regard. The assistance programmes comprise two phases: immediate medical and psychological assistance; and medium- and long-term assistance to equip victims with the tools for social reintegration. Assistance is granted to victims regardless of whether they have filed a judicial complaint. With regard to investigation, the Government describes how different police units cooperate among themselves and with the Office of the Prosecutor-General, which has 26 prosecutors and specialized teams to lead enquiries into cases of trafficking in persons. Furthermore, the Government provides information on the various actions taken by the Ministry of Labour to prevent and combat fraudulent offers of employment, which are often used to trap victims in cases of trafficking in persons for labour exploitation (operation of a telephone helpline for reporting violations, analysis of the modus operandi of fraudulent employers, implementation of awareness-raising campaigns and the training of labour inspectors). The Committee also notes that, in the context of the eight Memoranda of Understanding signed between Colombia and Argentina, Chile, Costa Rica, Ecuador, El Salvador, Honduras, Paraguay and Peru, respectively, several bilateral meetings have been held to implement the Memoranda of Understanding, formulate bilateral plans of action against trafficking and share best practices. The Committee also observes that Colombia is among the 13 countries selected to benefit from the Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants (GLO.ACT) programme, which supports countries in developing and implementing a comprehensive national response to combat both these crimes.

The Committee notes that, in its observations, the CGT indicates that the network of labour inspectors specialized in the area of trafficking in persons, which was due to be established in July 2017, is not yet in place. The CGT considers that more complete data on the phenomenon of trafficking in persons are necessary, particularly with regard to women. In their joint communication, the CUT and the CTC observe that only a limited number of victims have been officially identified and that there are still problems regarding their access to the justice system. The two trade unions call on the Government to be more proactive, particularly by: establishing systems to facilitate the identification of victims and

perpetrators of crimes; implementing a special programme for the protection of victims and their aftercare; establishing mechanisms to facilitate the detection of possible collusion by public officials; and collecting more precise data on cases which are pending or have already been settled.

The Committee notes that, according to data available on the website of the Ministry of the Interior, 422 cases of human trafficking were recorded between 2013 and May 2018, of which 84 per cent involved women, 60 per cent involved trafficking for sexual exploitation and 25 per cent involved trafficking for labour exploitation. In 2017, the operational anti-trafficking centre provided assistance to 98 victims.

The Committee notes all of this information and welcomes the Government's efforts to adopt and implement a broad and coordinated policy to combat trafficking in persons. *The Committee requests the Government to continue taking the necessary measures to implement the seven lines of action of the national strategy to combat trafficking in persons and to provide detailed information on this matter. The Committee also requests the Government to indicate the steps taken to ensure that all protection and assistance measures set out in the abovementioned Decree No. 1066 of 2015 are applied to victims in practice and to ensure better detection of situations involving trafficking in persons for both sexual and labour exploitation. Lastly, noting that the Government has not provided any information regarding ongoing investigations or judicial decisions even though 422 cases of trafficking have been recorded since 2013, the Committee requests the Government to supply information on the investigations conducted, the judicial proceedings initiated and the judgments handed down in cases of trafficking, with an indication of the difficulties faced by the competent authorities in this area. The Government is also requested to provide copies of reports or data published by the Human Trafficking Observatory and the Inter-institutional Committee to Combat Trafficking in Persons.*

Article 2(2)(a). Purely military character of work exacted in the context of compulsory military service. For several years, the Committee has been requesting the Government to take the necessary measures to review all legislation governing compulsory military service and bring it into line with *Article 2(2)(a)* of the Convention, under which, in order to not be considered to be forced labour, any work or service exacted in virtue of compulsory military service laws must be of a purely military character. The Committee has emphasized that the notion of compulsory military service in Colombia, which may be exacted in various forms, is much broader than the exception allowed by the Convention. For example, conscripts who have completed secondary education may be engaged in work that is not of a purely military nature. In this regard, the Committee has referred to:

- sections 11 and 13 of Act No. 48 of 1993 regulating the recruitment and mobilization service under which soldiers, and particularly conscripts who have completed secondary education, shall “carry out activities relating to the furtherance of the well-being of the population and the conservation of the environment”; and
- section 50 of Act No. 65 of 1993 and Decree No. 537 of 1994 regulating military service for graduates in the National Prison Institute, under which conscripts who have completed secondary school may perform their military service as auxiliaries in the National Prison Guard and Surveillance Service, where they assist prison staff in the guarding, surveillance and reintegration of prisoners.

In its report, the Government refers to the adoption of Act No. 1861 of 2017 regulating the recruitment service and the monitoring and mobilization of the reserve. The Committee notes that this Act repeals Act No. 65 of 1993. Under sections 4 and 11, military service is compulsory and is a duty that must be fulfilled by all Colombians who, from the age of 18 years, must declare their military status as a Class 1 or Class 2 reservist. The Act provides for a series of exemptions from compulsory military service, including conscientious objection. Military service lasts for 18 months and comprises four stages: military training, training in productive work, application in practice of the military training and a period of rest. However, military service for graduates of secondary education lasts for 12 months and they have no access to productive vocational training. The Committee also notes that, under section 16 of the Act, at least 10 per cent of personnel in each intake shall complete “environmental” service involving support activities aimed at protecting the environment and natural resources. Lastly, the Committee notes that while the CUT and the CTC, in their observations, welcome the changes introduced by the Act of 2017 with regard to the removal of the obligation to declare one's military status to obtain employment in the public or private sectors, the CGT indicates that it has received information confirming that the activities carried out in the context of military service are not of an exclusively military character.

The Committee notes this information and notes with *regret* that the new legislation adopted does not respond to the concerns previously expressed by the Committee regarding the range of activities that may be undertaken by conscripts in the context of compulsory military service. *The Committee once again expresses the firm hope that the Government will take the necessary measures to review the various forms of military service so that only work of a purely military character can be imposed on conscripts, particularly taking into account the situation of graduates of secondary education carrying out their military service in the National Prison Institute and conscripts conducting support activities aimed at protecting the environment and natural resources in the context of “environmental” service. Lastly, the Committee requests the Government to provide information on the “training in productive work” component of compulsory military service.*

Articles 1(1) and 2(1). Vulnerable workers in illegal gold mines at risk of forced labour. The Committee notes that the CGT refers in its observations to illegal gold mines and considers that the State does not conduct sufficient inspections of the working conditions in this sector and does not undertake sufficient prevention activities. On the basis of

a report of the Comptroller-General of the Republic, the CGT alleges forced displacements and human rights violations and emphasizes that the illegal nature of the economic activity encourages the exploitation of workers and the trafficking of persons, particularly of women for sexual exploitation. The CGT highlights the fact that this illegal mining takes place in isolated and inaccessible areas. ***The Committee requests the Government to supply information on the allegations of the CGT and to indicate the steps taken to protect workers in this sector to prevent them becoming trapped in situations of forced labour.***

Congo

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2012.

Article 2(2)(a) of the Convention. 1. *Work exacted under compulsory military service laws.* For many years the Committee has been drawing the Government's attention to the fact that section 1 of Act No. 16 of 27 August 1981 establishing compulsory military service is not in conformity with the Convention. Under this provision, national service is instituted for the purpose of enabling every citizen to participate in the defence and construction of the nation and has two components: military service and civic service. The Committee has repeatedly emphasized that work exacted from recruits as part of compulsory national service, including work related to national development, is not purely military in nature and is therefore contrary to *Article 2(2)(a) of the Convention*.

The Committee notes that the Government once again indicates that it is committed to repealing the abovementioned Act and this will be seen in practice in the revision of the Labour Code, which is in progress. ***The Committee again expresses the strong hope that when the Labour Code is revised, the necessary steps will be taken to amend or repeal the Act establishing compulsory military service so as to bring the legislation into conformity with the Convention. The Government is requested to supply information on any progress made in this respect.***

2. *Youth brigades and workshops.* In its previous comments the Committee noted the Government's indication that Act No. 31-80 of 16 December 1980 on guidance for youth had fallen into disuse since 1991. Under this Act, the party and mass organizations were supposed to create, over time, all the conditions for establishing youth brigades and organizing youth workshops (type of tasks performed, number of persons involved, duration and conditions of their participation, etc.). The Committee once again notes the Government's indication that it is committed to repealing the abovementioned Act and this will be seen in practice in the revision of the Labour Code, which is in progress. ***The Committee expresses the strong hope that when the Labour Code is revised, the necessary steps will be taken to formally repeal Act No. 31-80 of 16 December 1980 on guidance for youth.***

Article 2(2)(d). Requisitioning of persons to perform community work in instances other than emergencies. For many years the Committee has been drawing the Government's attention to the fact that Act No. 24-60 of 11 May 1960 is not in conformity with the Convention in that it allows the requisitioning of persons to perform community work in instances other than the emergencies provided for under *Article 2(2)(d)* of the Convention, and provides that persons requisitioned who refuse to work are liable to imprisonment ranging from one month to one year.

The Committee again notes the Government's indication that this Act has fallen into disuse and may be considered as repealed, in view of the fact that the Labour Code (section 4) and the Constitution (article 26), which prohibit forced labour, annul all the provisions of national law which are contrary to them. The Government explains that, in order to avoid any legal ambiguity, a text will be adopted enabling a clear distinction to be made between work of public interest and the forced labour prohibited by the Labour Code and the Constitution. The Government also indicates that the practice of mobilizing sections of the population for community work, on the basis of the provisions of section 35 of the statutes of the Congolese Labour Party (PCT), no longer exists. Tasks such as weeding and clean-up work are carried out by associations, state employees and local communities on a voluntary basis, therefore without any compulsion involved. Moreover, the voluntary nature of work for the community will be established in the revision of the Labour Code in such a way as to clearly bring the national legislation into conformity with the provisions of the Convention. ***The Committee notes this information and hopes that appropriate measures will be taken to clarify the situation in both law and practice, especially by the adoption of a text enabling a distinction to be made between work in the public interest and forced labour.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Dominica

Forced Labour Convention, 1930 (No. 29) (ratification: 1983)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2011.

Articles 1(1) and 2(1), (2)(a) and (d) of the Convention. National service obligations. Over a number of years, the Committee has been requesting the Government to repeal or amend the National Service Act, 1977, under which persons between the ages of 18 and 21 years are required to perform service with the national service, including participation in development and self-help projects concerning housing, school, construction, agriculture and road building, failure to do so being punishable with a fine and imprisonment (section 35(2)). The Committee observed that, contrary to the Government's repeated statement that the national service was created to respond to national disasters, the Act contained no reference to natural disasters, but specified the objectives of the national service, which "shall be to mobilize the energies of the people of Dominica to the fullest possible level of efficiency, to shape and direct those energies to promoting the growth and economic development of the State". The Committee pointed out that the above provisions are not in conformity with the present Convention and the Abolition of Forced

Labour Convention, 1957 (No. 105), which specifically prohibits the use of forced or compulsory labour “as a means of mobilizing and using labour for purposes of economic development”.

The Government indicates in its report that the item concerning the amendment of the legislation has been included in the Decent Work Agenda, and that the necessary measures will be taken to address the requests in relation to compliance with the Conventions with the technical assistance of the ILO. *While having noted the Government's indications in its earlier reports that the National Service Act, 1977, has been omitted from the Revised Laws of Dominica, 1990, and that section 35(2) of the Act has not been applied in practice, the Committee trusts that appropriate measures will be taken in the near future in order to formally repeal the above Act, so as to bring national legislation into conformity with Conventions Nos 29 and 105 and that the Government will provide, in its next report, information on the progress made in this regard.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Egypt

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1958)

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views, or views ideologically opposed to the established political, social or economic system. Since 1964, the Committee has been drawing the Government's attention to certain provisions under which penal sanctions involving compulsory prison labour (pursuant to sections 16 and 20 of the Penal Code) may be imposed in situations covered by *Article 1(a)*, namely:

- section 178(3) of the Penal Code, as amended by Act No. 536 of 12 November 1953 and by Act No. 93 of 28 May 1995, regarding the production or possession with a view to the distribution, sale, etc., of any images which may prejudice the reputation of the country by being contrary to the truth, giving an inexact description, or emphasizing aspects which are not appropriate;
- section 80(d) of the Penal Code, as amended by Act No. 112 of 19 May 1957, in so far as it applies to the wilful dissemination abroad by an Egyptian of tendentious rumours or information relating to the internal situation of the country for the purpose of reducing the high reputation or esteem of the State, or the exercise of any activity which will prejudice the national interest;
- section 98(a) bis and (d) of the Penal Code, as amended by Act No. 34 of 24 May 1970, which prohibits the following: advocacy, by any means of opposition to the fundamental principles of the socialist system of the State; encouraging aversion or contempt for these principles; constituting or participating in any association or group pursuing any of the foregoing aims, or receiving any material assistance for the pursuit of such aims;
- sections 98(b) and (b) bis, and 174 of the Penal Code concerning advocacy of certain doctrines;
- section 102 bis of the Penal Code, as amended by Act No. 34 of 24 May 1970, regarding the dissemination or possession of means for the dissemination of news or information, false or tendentious rumours, or revolutionary propaganda which may harm public security, spread panic among the people or prejudice the public interest;
- section 188 of the Penal Code concerning the dissemination of false news which may harm the public interest;
- the Meetings Act (No. 10 of 1914) and the Right to Public Meetings and Peaceful Assemblies Act (Law No. 107 of 2013) granting general powers to prohibit or dissolve meetings, even in private places.

The Committee also previously noted that the following provisions are enforceable with sanctions of imprisonment for a term of up to one year which may involve an obligation to perform labour in prison:

- section 11 of Act No. 84/2002 on non-governmental organizations prohibits associations from performing activities threatening national unity, violating public order or calling for discrimination between citizens on the grounds of race, origin, colour, language, religion or creed;
- sections 20 and 21 of Act No. 96/1996 on the reorganization of the press prohibit the following acts: attacking the religious faith of third parties; inciting prejudice and contempt for any religious group in society; and attacking the work of public officials.

The Committee also noted that in a joint letter dated 29 July 2016 issued by several bodies of the United Nations, underlined that Law No. 107 of 2013, which severely limits freedom of peaceful assembly and association, is regularly invoked by the authorities to crackdown on protesters with excessive or unnecessary force to disperse unauthorized demonstrations and other public gatherings, often resulting in serious injuries, detention and sometimes even death of protesters. According to the same document, nearly 60,000 persons have been detained for political reasons from July 2013 to July 2016.

The Committee further noted that in his report presented to the UN General Assembly in June 2017, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, reiterated his utmost concern at the past year's serious escalation of the crackdown on independent civil society, including on human rights defenders, lawyers, trade unionists, journalists, political opponents and protestors in Egypt (A/HRC/35/28/Add.3, paragraph 548).

The Committee notes the Government's indication in its report that the following sections of the Penal Code aim at protecting the public interest of the nation from acts that violate public order or harm or expose citizens to danger:

- section 178(3) (production or possession with a view to the distribution, sale, etc., of any images which may prejudice the reputation of the country by being contrary to the truth, giving an inexact description, or emphasizing aspects which are not appropriate);
- section 80(d) (wilful dissemination abroad by an Egyptian of tendentious rumours or information relating to the internal situation of the country for the purpose of reducing the reputation of the State);
- section 98(a) bis and (d) (advocacy, by any means, of opposition to the fundamental principles of the socialist system of the State and constituting or participating in any association or group pursuing any of the foregoing aims);
- sections 98(b) and (b) bis, and 174 (advocacy of certain doctrines); section 102 bis and 188 (the dissemination of news or information, false or tendentious rumours, or revolutionary propaganda which may harm public security) aim at protecting the public interest of the nation from acts that violate public order or harm or expose the interests of citizens to danger.

With regard to Act No. 10 of 1914 (the Meetings Act) as well as Law No. 107 of 2013 on the Right to Public Meetings and Peaceful Assemblies, the Government states that under the mentioned legislation, public meetings, processions and peaceful demonstrations are rights that all citizens are entitled to. Such rights can be exercised but only in accordance with certain rules in order to avoid disruption of citizens' interests, vandalism or disruption of economic activities. With regard to Act No. 96/1996 on the Reorganization of the Press, the Government indicates that Parliament approved in July 2018 a draft Act on the Reorganization of the Press and the Media that will amend the Act of 1996 and decriminalize press offences.

Concerning Act No. 84/2002 on non-governmental organizations, the Government states that the penalties provided for the violations cited in section 11 of the Act are imprisonment for less than one year, which do not lead to compulsory labour under section 20 of the Penal Code. This latter, provides that the judge shall hand down a sentence of hard labour (penal servitude) whenever the period of punishment exceeds one year. In all other cases, a light confinement sentence or hard labour may be handed down. On this point, the Committee points out that although section 20 of the Penal Code mainly deals with the sentence of hard labour, section 16 of the Penal Code as well as the provisions of Law No. 396 of 1956 on Prison Regulations provide that all those convicted and sentenced to a penalty of imprisonment are obliged to perform labour within or outside the jail. In this regard, the Committee draw the Government's attention to the fact that the application of the Convention is not restricted to sentences of "hard labour" or other particularly arduous forms of labour, as opposed to ordinary prison labour. The Convention prohibits the use of "any form" of compulsory prison labour, as a sanction for holding or expressing political views, or views ideologically opposed to the established political, social or economic system.

Moreover, the Committee observes that in a press release dated 28 September 2018, United Nations Experts (Special Rapporteur on the situation of human rights defenders, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and others) expressed their concern at the human rights defenders' prolonged period of detention arising from their peaceful exercise of human rights.

Therefore, the Committee once again recalls that restrictions on fundamental rights and liberties, including freedom of expression, may have a bearing on the application of the Convention if such measures are enforced by sanctions involving compulsory prison labour. Referring to its 2012 General Survey on the fundamental Conventions, paragraph 302, the Committee points out that the range of activities which must be protected from punishment involving compulsory labour, under *Article 1(a)*, include the freedom to express political or ideological views (which may be exercised orally or through the press and other communications media), as well as various other generally recognized rights, such as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views, and which may also be affected by measures of political coercion. The Committee finally emphasizes that the protection conferred by the Convention is not limited to the expression or manifestation of opinions diverging from established principles; even if certain activities aim to bring about fundamental changes in state institutions, such activities are protected by the Convention as long as they do not resort to or call for violent means to these ends.

In view of the above, the Committee, once again *deplores* that despite the comments it has been making for a number of years, Act No. 10 of 1914 on Meetings, Act No. 107 of 2013 on the Right to Public Meetings and Peaceful Assemblies, Act No. 84/2002 on non-governmental organizations, as well as sections 80, 98, 102, 174 and 188 of the Penal Code, have not been amended to bring them in line with the Convention. ***The Committee therefore strongly urges the Government to take immediate and effective measures to ensure that no prison sentences involving compulsory labour are imposed on persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. The Committee requests the Government to ensure that the provisions of Act No. 10 of 1914 on Meetings, Act No. 107 of 2013 on the Right to Public Meetings and Peaceful Assemblies, Act No. 84/2002 on non-governmental organizations, as well as sections 80, 98, 102, 174 and 188 of the Penal Code are amended, by clearly restricting the application of these provisions to situations connected to the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. The Committee also requests***

the Government to take the necessary measures to ensure that the application in practice of the abovementioned legislation does not lead to punishment involving compulsory labour in situations covered by Article 1(a) of the Convention. Lastly, with regard to the amendment to Act No. 96/1996 on the Reorganization of the Press, the Committee requests the Government to provide information on any progress made regarding the adoption of the new Press and Media Act, and to provide a copy of the Act, once adopted. Pending the adoption of such measures, the Committee requests the Government to provide information on the application of these provisions in practice, including sample copies of the court decisions and indicating the penalties imposed, the number of individuals whose penalties involve compulsory prison labour according to sections 16 and 20 of the Penal Code.

The Committee is raising other matters in a request addressed directly to the Government.

Eritrea

Forced Labour Convention, 1930 (No. 29) (ratification: 2000)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the detailed discussion which took place in the Conference Committee on the Application of Standards in May–June 2018, concerning the application by Eritrea of the Convention. It also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2018. The Committee further notes the report of the Technical Advisory Mission of the ILO to Eritrea that took place from 23 to 27 July 2018.

Articles 1(1) and 2(1) of the Convention. Compulsory national service. In the context of their previous examinations of the application of the Convention, both the Conference Committee and the Committee of Experts urged the Government to amend or repeal the Proclamation on National Service (No. 82 of 1995) and the 2002 statement concerning the Warsai Yakaalo Development Campaign in order to bring an end to the generalized and systematic practice of the exaction of compulsory labour from the population in the context of programmes related to the obligation of national service.

The Committee noted that, at the legislative level, the Constitution establishes the obligation for citizens to perform their duty of national service (article 25(3)) and that the Proclamation on National Service specifies that this obligation concerns all citizens aged between 18 and 50 years (article 6). This obligation includes active national service and service in the reserve army. Active national service, which concerns all citizens aged between 18 and 40 years, is divided into two periods: six months of active national service in the National Service Training Centre; and 12 months of active military service and development tasks in the military forces (article 8). The objectives of national service include the establishment of a strong defence force based on the people to ensure a free and sovereign Eritrea. The Committee also noted that, in practice, the conscription of all citizens between the ages of 18 and 40 years for an indeterminate period had been institutionalized through the Warsai Yakaalo Development Campaign, approved by the National Assembly in 2002. In this respect, the Government confirmed that, in the context of their national service, conscripts could be called upon to perform other types of work and that in practice they participated in many programmes, including the construction of roads and bridges, reforestation, soil and water preservation, reconstruction and activities intended to improve food security.

The Committee recalled that, although the Convention explicitly provides for a limited number of cases in which ratifying States may exact compulsory labour from the population, particularly in the context of normal civic obligations, compulsory military service and situations of emergency, the conditions under which compulsory labour is exacted are strictly defined and the work involved must respond to precise requirements to be excluded from the definition of forced labour. The Committee reaffirmed that, in view of its duration, scope, objectives of the national service (reconstruction, action to combat poverty and strengthening of the national economy), and the broad range of work performed, labour exacted from the population in the framework of compulsory national service goes beyond the exceptions authorized by the Convention and constitutes forced labour.

The Committee notes that, in its conclusions adopted in June 2018, the Conference Committee noted the Government's statement that the Warsai Yakaalo Development Campaign is no longer in force, and that a number of conscripts have been demobilized and are now under the civil service with an adequate salary. It urged the Government to amend or revoke the Proclamation on National Service, bring an end to forced labour, ensure the cessation of the use of conscripts for the exaction of forced labour in line with the Convention, and avail itself without delay of ILO technical assistance.

The Committee notes that, in its observations, the IOE emphasizes the urgency of bringing an end to compulsory national service for the purpose of development in Eritrea. The IOE also urges the Government to cooperate with the ILO and encourages it to avail itself of ILO technical assistance.

The Committee notes from the report of the ILO Technical Advisory Mission that various stakeholders pointed out that the duration of national service had been prolonged due to unrelenting threats and the state of belligerency of Ethiopia. Despite the threat of war, the Government had taken several measures to demobilize conscripts and to rehabilitate them within the civil service. However, while the demobilization process was initially implemented

successfully, the subsequent phases were terminated with the state of belligerency of Ethiopia. The Government reiterates that the power to mobilize labour was related to a genuine situation of force majeure, and that it had no option but to take the necessary measures of self-defence that were proportionate to the threat faced by Eritrea.

The Committee also notes from the mission report a consensus prevailing among the various interlocutors the mission met with that it was important to understand the context of the national service with respect to any engagement with Eritrea. This context included the fact that the obligation of every citizen to undertake national service had to be seen in the light of the situation of “no war, no peace” which had been devastating for the country, and that national service had been part of the Eritrean national struggle for liberation even though national service of an indefinite duration had never been on the Government’s agenda. While recognizing that many Eritreans were willing to be part of the national service which was not intended to be “indefinite”, and that national service was essential not only to ensuring the development of the country but also to ensuring its very existence, the Committee notes that the mission was of view that national service could not be considered as a case of “force majeure”, and that the exceptions set out by the Convention could not apply to forced labour exacted for economic development purposes for an indefinite period of time.

The Committee further notes that a range of stakeholders indicated to the mission that, in light of the recent peace treaty between Eritrea and Ethiopia, the compulsory nature of the national service would no longer be justified and demobilization was expected to happen, even though no precise date has been specified. In this context, the mission report highlights that ILO technical assistance could be useful on employment-related issues, to the extent that these could be linked to the demobilization project. Future collaboration could include training on labour market reform pursuant to demobilization of the population, employment creation, income-generating activities and skills training especially for the younger population, as well as capacity building of labour administration and labour inspection. Lastly, the Committee notes that the Government and social partners indicated to the mission that they were keen to receive technical assistance with a view to ratifying the Worst Forms of Child Labour Convention, 1999 (No. 182).

The Committee notes the Government’s reference in its report to the joint declaration of Eritrea and Ethiopia on peace and friendship made on 9 July 2018, which indicates the intention of the two parties to end the state of war, open a new era of peace and friendship, implement the decision of the boundary commission and advance the vital interest of their people. The Government indicates that the peace accord has cleared the root cause and the existential threats that had been raised by the delegation of Eritrea to the Conference Committee. In this context, the Government remains engaged to work jointly on all outstanding issues and welcomes ILO technical assistance in order to enhance the whole labour administration to promote and protect the rights of employers and workers through integrated measures, as well as through comprehensive policies and programme, so as to fully comply with ILO standards. Additionally, the Committee notes that the Security Council of the United Nations welcomes the Agreement on Peace, Friendship and Comprehensive Cooperation signed by the President of Eritrea and the Prime Minister of Ethiopia on 16 September 2018.

In light of the above information, the Committee welcomes the recent peace agreement concluded between Eritrea and Ethiopia, as well as the fact that demobilization from the national service is expected to take place soon. It also takes due note of the political will demonstrated by the Government to address the issues raised by the Committee and the Conference Committee, including through its acceptance to receive an ILO technical advisory mission to examine the issues raised. *In this respect, noting the Government’s indication to the members of the Technical Advisory Mission of its willingness to avail itself of ILO technical assistance, the Committee urges the Government to continue to collaborate with the ILO by seeking ILO technical assistance with a view to amending or repealing Proclamation No. 82 of 1995 on National Service, so as to: (a) limit the work exacted from the population within the framework of compulsory national service to military training and work of a purely military character; and (b) limit the exaction of compulsory work or services from the population to genuine cases of emergency, by ensuring that the duration and extent of such compulsory work or services are limited to what is strictly required by the exigencies of the situation. It also encourages the Government to collaborate with the ILO on a broader basis on issues linked to the demobilization from the national service as highlighted in the mission report. In addition, noting the Government’s intention to ratify Convention No. 182, the Committee requests the Government to further engage in ILO technical assistance in this regard.*

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2000)

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2018 and requests the Government to provide its comments in this respect.

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. In its previous comments, the Committee requested the Government to take the necessary measures to ensure that no prison sentences (under the terms of which compulsory labour may be required) are imposed on persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. In this respect, it noted that several provisions of Press Proclamation No. 90/1996 establish restrictions on printing and publishing (concerning the printing or reprinting of an Eritrean newspaper or publication without a permit; printing or disseminating a foreign newspaper or publication prohibited from

entering Eritrea; publishing inaccurate news or information disturbing public order (article 15(3), (4) and (10))), which are punishable with penalties of imprisonment. Under the terms of article 110 of the Transitional Penal Code of 1991, persons convicted to imprisonment are subject to the obligation to work in prison. The Committee noted in this regard that, in her May 2014 report, the United Nations Special Rapporteur on the situation of human rights in Eritrea indicated that violations of rights, such as infringements of freedom of expression and opinion, assembly, association and religious belief, were still as numerous.

The Committee notes the Government's indication in its report that it is well known that expressing a political opinion or belief is not a crime in Eritrea. Since independence, no citizen has been detained for expressing his or her opinion or for criticizing the Government. The only restrictions on freedom of expression are related to the rights of others, morality, sovereignty and national security. The Government refers to the 1997 Constitution which not only protects fundamental freedoms, such as freedom of expression and opinion, assembly, association and religious belief, but also provides judicial and administrative remedies in case of violation. With regard to religious freedom, the Government refers to Proclamation No. 73/1995 respecting religious institutions and activities and indicates that no interference is allowed in the exercise of the rights of any religion or creed on condition that they are not used for political purposes and are not prejudicial to public order or morality. The Committee also notes the Government's view that the situation described in the report of the United Nations Special Rapporteur on the situation of human rights in Eritrea is misrepresented and that several of the allegations contained in the report, to which the Committee referred, are untrue.

The Committee notes that, in its latest resolution on the situation of human rights in Eritrea, adopted in June 2017, the United Nations Human Rights Council expresses its "deep concern at the severe restrictions on the right to freedom to hold opinions without interference, freedom of expression, including the freedom to seek, receive and impart information, liberty of movement, freedom of thought, conscience and religion, and freedom of peaceful assembly and association, and at the detention of journalists, human rights defenders, political actors, religious leaders and practitioners in Eritrea" (A/HRC/RES/35/35). The Committee also notes that, in the context of the Working Group on the Universal Periodic Review, the Government accepted the recommendations of certain countries encouraging it to "reform legislation in the area of the right to freedom of conscience and religion"; ensure that "the rights of all its people to freedom of expression, religion, and peaceful assembly are respected"; and take the "necessary measures to ensure respect for human rights, including the rights of women, political rights, the rights of persons in detention and the right of freedom of expression as it pertains to the press and other media" (A/HRC/26/13/Add.1).

The Committee recalls that the Convention protects persons who hold or express political views or views ideologically opposed to the established political, social or economic system by prohibiting the imposition of penalties which may involve compulsory labour, including sentences of imprisonment including compulsory labour. Freedom of opinion, belief and expression are exercised through various rights, such as the right of assembly and association and freedom of the press. The exercise of these rights enables citizens to secure the dissemination and acceptance of their views, or to practice their religion. While recognizing that certain limitations made be imposed on these rights as a safeguard for public order to protect society, such limitations must be strictly within the framework of the law. *In light of these considerations, the Committee expresses the firm hope that the Government will take all the necessary measures to ensure that the legislation that is currently in force, as well as any legislation that is being prepared concerning the exercise of the rights and freedoms referred to above, does not contain any provision which could be used to punish the expression of political opinions or views ideologically opposed to the established political, social or economic system, or the practice of a religion, through the imposition of a sentence of imprisonment under which labour could be imposed (as is the case for sentences of imprisonment in Eritrea). In this regard, the Committee requests the Government to provide information on any sentences of imprisonment imposed for violations of the provisions of the Press Proclamation (No. 90/1996) or Proclamation No. 73/1995 respecting religious institutions and activities, with an indication of the acts which gave rise to conviction to such penalties.*

Article 1(b). Compulsory national service for purposes of economic development. The Committee refers to its observation concerning the Forced Labour Convention, 1930 (No. 29), in relation to the broad range of types of work exacted from the population as a whole in the context of compulsory national service, as set out in the Proclamation on National Service No. 82 of 1995 and the 2002 Declaration on the "Warsai Yakaalo" Development Campaign. The Committee expresses *deep concern* at the absence of progress in law and practice to circumscribe the obligation of service within the limits authorized by the two forced labour Conventions. It recalls that this national service obligation, to which all citizens between the ages of 18 and 40 years are subject for an indeterminate period of time, has the objectives of the reconstruction of the country, action to combat poverty and the reinforcement of the national economy and, consequently, is in blatant contradiction with the objective of this Convention which, in *Article 1(b)*, prohibits recourse to compulsory labour "as a method of mobilising and using labour for purposes of economic development". *The Committee therefore strongly urges the Government to take the necessary measures without delay for the elimination in law and practice of any possibility of using compulsory labour in the context of national service as a method of mobilizing labour for the purposes of economic development.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Ethiopia

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for the expression of political or ideological views. For a number of years, the Committee has been referring to the following sections of the Criminal Code, under which penal sanctions involving compulsory prison labour may be imposed by virtue of section 111(1) of the Code, in circumstances covered by *Article 1(a)* of the Convention:

- sections 482(2) and 484(2): punishment of ringleaders, organizers or commanders of forbidden societies, meetings and assemblies;
- section 486(a): inciting the public through false rumours; and
- section 487(a): making, uttering, distributing or crying out seditious or threatening remarks or displaying images of a seditious or threatening nature in any public place or meeting (seditious demonstrations).

The Committee also referred to the definition of terrorism under the Anti-Terrorism Proclamation No. 652/2009, under section 6 of which any person who “publishes or causes the publication of a statement that is likely to be understood by some or all of the members of the public to whom it is published as a direct or indirect encouragement, or other inducement to them, to the commission or preparation or instigation of an act of terrorism is punishable with rigorous imprisonment from ten to 20 years”. In this regard, the Committee noted that in 2010 the United Nations Universal Periodic Review (UPR) Working Group expressed concern at the Anti-Terrorism Proclamation which, due to its broad definition of terrorism, had led to abusive restrictions on the press. The Committee further noted that journalists and opposition politicians had been given sentences ranging from 11 years to life imprisonment under the Proclamation, and that numerous defendants were scheduled to appear before the courts on similar charges. The Committee therefore urged the Government to take measures to limit the scope of application of the Anti-Terrorism Proclamation and the above provisions of the Criminal Code in order to ensure that no sanctions involving compulsory labour could be imposed on those holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee notes the Government’s reiterated indication in its report that, the peaceful expression of views or of opposition to the established political, social or economic system is a constitutionally respected right and nobody is forced to be subjected to forced or compulsory labour as a result of this. The Committee also notes that an ILO mission took place in Ethiopia in September 2016, as a follow-up to the March 2015 mission on implementation gaps in the application of the forced labour Conventions. According to the mission report, discussions were held with the relevant stakeholders regarding certain provisions of the Criminal Code that involve compulsory prison labour with a view to ensuring their conformity with the Convention.

Moreover, the Committee notes that, in a press release of 2016, the African Commission on Human and Peoples’ Rights (the African Commission) observed with deep concern the deterioration of the human rights situation in Ethiopia, particularly the recent unrest and violence in the Oromia Region. Moreover, the Committee observes that the African Commission adopted a resolution in which it expressed concern about the use of excessive and disproportionate force to disperse protests, resulting in the deaths and injuries of several protestors, as well as the arbitrary arrest and detention of many others. Following the protests which began in November 2015, the African Commission also expressed its concern about allegations relating to the arbitrary arrest and detention of members of opposition parties and human rights defenders (ACHPR/Res.356(LIX) 2016). Moreover, the Committee observes that the African Commission is concerned by restrictions on movement, assembly, media access, internet services as well as the arbitrary arrest and detention of many people following the state of emergency declaration.

The Committee is bound to express its **deep concern** over the detentions of, and prosecutions against, members of the opposition parties and human rights defenders, and recalls that restriction on fundamental rights and liberties, including freedom of expression may have a bearing on the application of the Convention if such restrictions are enforced by sanctions involving compulsory labour. In this respect, referring to its 2012 General Survey on the fundamental Conventions, the Committee points out that the range of activities which must be protected from punishment involving compulsory labour under *Article 1(a)* of the Convention include the freedom to express political or ideological views (which may be exercised orally or through the press and other communications media), as well as various other generally recognized rights, such as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views, and which may also be affected by measures of political coercion (paragraph 302). ***The Committee therefore once again urges the Government to take the necessary measures to ensure that no penalties involving compulsory labour are imposed for the peaceful expression of political views opposed to the established political, social or economic system, for example by clearly restricting the application of the Anti-Terrorism Proclamation, as well as the following provisions of the Criminal Code: sections 482(2), 484(2), 486(a) and 487(a), to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. Finally, the Committee requests the Government to provide information in this connection, as well as information on the application in practice of the abovementioned sections of the Criminal Code and the Anti-Terrorism Proclamation, including copies of any court decisions specifying the penalties imposed.***

The Committee is raising other matters in a request addressed directly to the Government.

Germany

Forced Labour Convention, 1930 (No. 29) (ratification: 1956)

Articles 1(1), 2(1) and 2(2)(c) of the Convention. Compulsory work of prisoners in privately run workshops. For a number of years, the Committee has been drawing the Government’s attention to the need to adopt appropriate measures to bring the legislation and practice into conformity with the Convention, by ensuring that free and informed consent is formally required for the work of prisoners in privately run workshops in state prisons and that the conditions of work of these prisoners approximate a free labour relationship. The Committee noted that, under section 41(3) of the Act on the Execution of Sentences of 13 March 1976, employment in a workshop run by a private enterprise is to depend on the prisoner’s consent. However, the consent requirement provided for by section 41(3) was suspended by the “Second Act to improve the budget structure” of 22 December 1981, and had remained a dead letter since that time.

The Committee also noted that, since 2006, legislation on penal enforcement came within the competence of the federal states (*Länder*). Among 13 *Länder* where statutory regulations had been adopted in this regard, four have adopted penal enforcement acts which no longer provide for a duty to work for prisoners (Brandenburg, Rhineland-Palatinate, Saarland and Saxony). A general obligation for prisoners to work is still in force in 12 *Länder* (whether under the Federal Prison Act or the newly adopted penal enforcement acts). Furthermore, except for three *Länder*, there remains the possibility of assigning prisoners to work in workshops managed by private enterprises. According to the statistics provided for 2013, 62.5 per cent of the average total number of prisoners were employed or in training, out of which 21.36 per cent worked in entrepreneur workshops. The Government indicated that it had so far been impossible to offer employment to all prisoners willing to work. The Committee also noted the observations of the International Organisation of Employers (IOE) and the Confederation of German Employers' Association (BDA), according to which, there continued to be a job shortage in prisons and therefore prison authorities welcomed jobs made available by private entities. Prisoners were not forced to work since there were fewer employment possibilities than prisoners who wanted to work.

The Committee notes the Government's information in its report that all 16 *Länder* have adopted their own statutory regulations regarding the execution of penal sanctions, including work performed by prisoners when serving their sentences. Except for four *Länder* mentioned in the previous comments of the Committee, the relevant regulations of the remaining *Länder* provide for a general obligation to work for convicted prisoners. Moreover, the law of all the *Länder*, except for Hamburg, provides for a possibility of assigning prisoners to work in "entrepreneur workshops" within the prison institution. The Government emphasizes that, while the staff of the private enterprises may give work-related instructions, the supervision of prisoners and all decisions related to inmate treatment remain the responsibility of the penal enforcement authority. It reiterates that work assigned to prisoners as a consequence of a decision in a court of law is crucial to integration and forms part of social reintegration plans. The Government also indicates that prisoners may engage in a "free employment relationship", under which appropriate working conditions, including remuneration, are ensured. This employment relationship may continue upon the release of the prisoners concerned.

The Committee also notes the detailed information of each *Länder* provided by the Government in this regard. In Bremen, the duty to work exists only if considered as necessary during a diagnostic process to determine the sentence-serving plan of a prisoner, taking into consideration other social rehabilitation and reintegration measures. Moreover, when a recommendation for employment is made following the diagnostic process, the prisoner concerned shall make a request for work, indicating two desired workplaces. However, the Committee notes that prisoners may be assigned to work in privately managed workshops without their formal consent under the relevant statutory regulations in the remaining *Länder*, namely Baden-Württemberg, Bavaria, Berlin, Hesse, Mecklenburg-Vorpommern, Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt, Schleswig-Holstein, and Thuringi. In 2017, a number of prisoners worked at entrepreneur workshops (ranging from 5.5 per cent in Mecklenburg-Vorpommern to 37.27 per cent in Lower Saxony), while some prisoners were provided with opportunities to work under a free employment relationship or be self-employed (ranging from 0.66 per cent in Bavaria to 8.92 per cent in Baden-Württemberg). The Committee further notes that, in Hamburg, although there are no "entrepreneur workshops" operated by private enterprises within the prison institution, 14.84 per cent of the prisoners work outside the institution. The Committee observes that it is unclear whether private undertakings are involved in this work arrangement outside the prison. Additionally, the Committee notes that working prisoners are paid €9.87–€16.44 per day and that regulations regarding occupational safety and health also apply to them, according to the information provided by some *Länder*, such as Berlin and Hesse.

The Committee considers that, by virtue of *Article 2(2)* of the Convention, compulsory labour of convicted persons is excluded from the scope of the Convention, provided that it is "carried out under the supervision and control of a public authority" and that such persons are not "hired to or placed at the disposal of private individuals, companies or associations". These two conditions are equally important and apply cumulatively: the fact that the prisoner remains at all times under the supervision and control of a public authority does not itself dispense the Government from fulfilling the second condition, namely that the person is not hired to or placed at the disposal of private undertakings. If either the two conditions is not observed, compulsory labour exacted from convicted persons under these circumstances is prohibited by virtue of *Article 1(1)* of the Convention. The Committee once again recalls that it has already considered that work by prisoners for private enterprises can be held compatible with the requirement of the Convention, such as the work performed by prisoners under a "free employment relationship", as referred to by the Government. In such circumstances, the prisoners concerned offer themselves *voluntarily*, without being subjected to pressure or the menace of any penalty, by giving their free, formal and informed consent to work for private enterprises. Moreover, as the most reliable indicator of the voluntariness of labour performed in the prison context, working conditions which approximate a free labour relationship shall be ensured, including the level of wages (leaving room for deductions and attachments), the extent of social security and the application of regulations on occupational safety and health (see paragraphs 278, 279 and 291 of the 2012 General Survey on the fundamental Conventions). ***While noting that some prisoners may be provided with opportunities to work under a free employment relationship, the Committee requests the Government to take the necessary measures to ensure that, both in law and practice, prisoners may perform work for private undertakings inside or outside the prison premises only with their free, formal and informed consent, and that such consent be authenticated by conditions of work approximating a free labour relationship. The Committee also requests the Government to continue providing information on the number of prisoners working in entrepreneur workshops inside***

or outside prison premises, as well as those working under a free employment relationship or self-employed. It further requests the Government to continue providing information on the level of the remuneration granted to these prisoners and their conditions of employment.

The Committee is raising other matters in a request addressed directly to the Government.

Guinea

Forced Labour Convention, 1930 (No. 29) (ratification: 1959)

Articles 1(1) and 2(1) of the Convention. Vagrancy. The Committee previously noted that, under sections 272 and 273 of the Penal Code of 1998, any persons who are officially declared vagrants, namely “persons who have no fixed abode and no means of subsistence and have no regular job or occupation”, are liable by virtue thereof to imprisonment ranging from three to six months. The Committee considered that these provisions enabled a prison sentence including the obligation to work to be imposed on persons who have done nothing to disturb public order and may constitute a direct or indirect compulsion to work, which is incompatible with the Convention. The Committee requested the Government to amend the abovementioned sections of the Penal Code so that only persons who are found guilty of unlawful activity and of disturbing public order may incur penalties.

The Committee notes the indication in the Government’s report that the Penal Code of 1998 has been replaced by Act No. 2016/059/AN of 26 October 2016 enacting the Penal Code. The Committee notes with *satisfaction* that sections 272 and 273 of the Penal Code of 1998 have been repealed with the effect that persons who have not disturbed public order may no longer be punished by imprisonment involving the obligation to work.

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

Article 1(a) of the Convention. Imposition of prison sentences involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. In its previous comments, the Committee noted that, under Decree No. 247/72/PRG of 20 September 1972 concerning the establishment and structure of the prison administration and Decree No. 624/PRG/81 of 13 November 1981 supplementing Decree No. 247/72/PRG, work is compulsory for all convicted prisoners under common law but is optional for those who have been accused or charged. The Committee asked the Government to provide information on the application in practice of certain provisions of Act No. 98/036 of 31 December 1998 issuing the Penal Code, Act No. 91/02/CTRN establishing a charter of political parties and Act No. 91/05/CTRN on freedom of the press, under the terms of which certain activities may be punished by prison sentences involving compulsory labour in circumstances which are covered by the Convention.

The Committee notes the Government’s indications, in its report, that a large number of provisions of the Penal Code of 1998 allowing the imposition of prison sentences involving compulsory labour have been maintained in Act No. 2016/059/AN of 26 October 2016 issuing the new Penal Code. The Government provides information on their application in practice. The provisions in question are as follows:

- Sections 629, 630(1) and (2), 632(1), 634, 636(1) and (2) and 637 of the Penal Code of 2016, replacing sections 111(1) and (2), 113(1), 116, 109(1) and (2) and 121 of the Penal Code of 1998, which establish prison sentences for organizing or participating in an undeclared or unauthorized demonstration or in an unarmed gathering of persons, for organizing a meeting on a public thoroughfare, and for any other related peaceful activities. The Committee notes the Government’s indication that these provisions have often been applied, during criminal proceedings resulting from unauthorized public political demonstrations. It notes the Government’s indication, in its report submitted to the Human Rights Committee in October 2017, that the legal framework for the right of peaceful assembly is set out in the Penal Code and in Act No. 2015/009/AN of 4 June 2015 on maintaining public order. The Government acknowledges in this regard that certain meetings can be prohibited and dispersed on vague grounds that can easily be misused, for example, if the meeting “might disturb the public peace” (CCPR/C/GIN/3, paragraph 216).
- Section 704 of the Penal Code of 2016, reiterating section 214 of the Penal Code of 1998, concerning charlatanism, which provides that anyone who indulges in practices relating to sorcery, magic or charlatanism likely to disrupt public order or adversely affect persons or property shall be liable to imprisonment ranging from one to five years. The Committee notes the Government’s indication that this section has been applied on several occasions, and that the definition of this offense does not pose a particular problem.
- Sections 689–703 of the Penal Code of 2016, reiterating sections 215–220 of the previous Penal Code, concerning breaches of public order caused by religious ministers in the performance of their ministry, which provides that any religious minister delivering an address at a public gathering containing remarks likely to disturb the peace or disrupt public order shall be liable to imprisonment ranging from three months to two years. The Government indicates that it has no knowledge of these sections being applied, owing to the country’s religious tolerance.

- Sections 659, 662–665 and 739(1) of the new Penal Code, replacing sections 232 and 234–238 of the Penal Code of 1998, as well as section 658 of the new Penal Code, concerning insulting behaviour towards officials in authority and officers of the law, which provides that anyone guilty of insulting the Head of State shall be liable to imprisonment ranging from one to three years. The Government indicates that section 659 has been applied on several occasions, as a result of offenses committed by citizens against the Head of State.
- Sections 363–366 of the Penal Code of 2016, previously sections 371–374, concerning defamation and abuse. The Committee notes that, according to the Government, these provisions are often used as a result of various acts of defamation and abuse likely to put individuals at odds.

The Committee takes due note of the Government's indication that section 517(17) of the previous Penal Code, which provided that anyone who opposed, especially verbally or by lack of cooperation, the exercise of legitimate authority by an officer of the law or by any citizen responsible for providing public service, thereby disrupting public order or obstructing the smooth operation of administrative or judicial services, should be liable to imprisonment ranging from one to 15 days, has been removed from the new Penal Code. The Committee notes that other provisions of the new Penal Code of 2016 allow the imposition of prison sentences involving compulsory labour in circumstances which are covered by the provisions of the Convention, particularly section 660, which establishes a prison sentence ranging from 16 days to six months for any public insult to the national anthem, the national flag or a foreign flag.

The Committee notes the absence of information from the Government on the application in practice of sections 30 and 31 of Organic Act No. 91/02/CTRN of 23 December 1991 establishing a charter of political parties, which state that anyone who founds, directs or administers a political party in violation of the law, or directs or administers a dissolved political party by maintaining or reconstituting it, shall be liable to prison sentences involving compulsory labour.

The Committee notes with *interest* that Organic Act No. L/2010/02/CNT of 22 June 2010 on freedom of the press, which replaced Organic Act No. 91/05/CTRN of 23 December 1991, no longer establishes prison sentences for press-related offenses. It notes that, in its report submitted to the Human Rights Committee in October 2017, the Government indicates that the press and printing presses operate in freedom and that there are 43 independent radio stations and a large number of newspapers in the country. The Government also acknowledges that isolated cases of violations of freedom of opinion and expression have occasionally been reported, including arrests of journalists (CCPR/C/GIN/3, paragraphs 202 and 203).

With reference to its 2012 General Survey on the fundamental Conventions (paragraphs 302 and 303), the Committee recalls that the range of activities which must be protected from punishment involving compulsory labour, under *Article 1(a)* of the Convention, comprises the freedom to express political or ideological views (which may be exercised orally or through the press and other communications media), as well as various other generally recognized rights, such as the right of association and of assembly, through which citizens seek to secure the dissemination and acceptance of their views and which may also be affected by measures of political coercion. It also emphasizes that the Convention does not prohibit the application of punishments involving compulsory labour to persons who use violence, incite violence or prepare acts of violence. ***The Committee therefore requests the Government to take the necessary measures to ensure that no punishments involving compulsory labour are imposed, in law or practice, on persons who peacefully express views ideologically opposed to the established political, social or economic system. In this regard, it requests the Governments to amend the aforementioned sections of the Penal Code, by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing punishments involving compulsory labour. It requests the Government to provide information on any progress made in this respect. It also requests the Government to take the necessary measures to ensure that in practice press-related offences are not punished with compulsory prison labour. Lastly, the Committee requests the Government to indicate how section 660 of the Penal Code and sections 30 and 31 of Act No. 91/02/CTRN establishing a charter of political parties are applied in practice, and to provide a copy of Act No. 2015/009/AN on maintaining public order.***

The Committee is raising other matters in a request addressed directly to the Government.

India

Forced Labour Convention, 1930 (No. 29) (ratification: 1954)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018.

Articles 1(1), 2(1) and 25 of the Convention. 1. *Bonded labour. Monitoring mechanisms and effective implementation of the legislative framework.* The Committee previously noted that the Bonded Labour System (Abolition) Act, 1976 (BLSA) establishes penalties for compulsion to render bonded labour, advancement of bonded debt and enforcement of any custom, tradition, contract, agreement or other instrument requiring any service to be rendered under the bonded labour system.

The Committee notes the ITUC's observation that endemic levels of debt bondage in the brick kiln industry affect a huge number of people, including children, with at least 125,000 functioning brick kilns in India employing an estimated ten to 23 million workers. The model of employment, including recruitment and payment systems in brick kilns, underpin

the cycle of forced labour, trapping workers in bonded labour, year after year. The ITUC further observes that there is a consistent failure to implement the BLSA and that the district officials and the police regularly refuse to recognize bonded labour cases and fail to take appropriate action to release workers and prosecute offenders.

The Committee notes the Government's information in its report that from 2006 to 2015, the vigilance committees in the states conducted 1,321 raids and a total of 3,704 cases of bonded labour were registered across India. Out of these cases, 2,408 cases were finalized without convictions and 267 cases with convictions, while 1,029 cases are still pending. It notes from the data collected by the National Human Rights Commission (NHRC) that the most number of cases of bonded labour was registered in the Union Territory of Delhi (992), and in the States of Maharashtra (796), Odisha (727), Tamil Nadu (366), Andhra Pradesh (284), Karnataka (260) and Uttar Pradesh (214). The Committee also notes the Government's information that in the State of Gujarat, the vigilance committees in the 26 districts and 111 *prants* (provinces) hold regular meetings under the chairmanship of the Collector and District magistrate. In 2017, 38 such meetings were held. The Government further provides information on the various measures taken by the State Government of Tamil Nadu, including: (i) the rescue and rehabilitation of 276 bonded labourers from April 2017 to March 2018; (ii) the development of a Standard Operating Procedure (SOP) for the identification, release and rehabilitation of bonded labour; and (iii) the carrying out of sensitization and training programmes on bonded labour for state officials. The Committee finally notes the Government's information that the Centrally Sponsored Scheme for Rehabilitation of Bonded Labourers has been revised and renamed as the Central Sector Scheme for Rehabilitation of Bonded Labourers, 2016. Under this scheme, the financial assistance to rescued bonded labourers has been increased. It also provides for the creation of a Bonded Labour Rehabilitation Fund at the district level by each State which grants immediate help to rescued bonded labourers. Moreover, the Committee notes from the report submitted by the Government under the Abolition of Forced Labour Convention, 1957 (No. 105), that under this scheme a total of 292,355 freed bonded labourers have been rehabilitated. ***The Committee strongly encourages the Government to continue to take the necessary measures to ensure that the provisions under the Bonded Labour System (Abolition) Act, are strictly and effectively enforced and adequate penalties are imposed on persons who involve others in bonded labour, in particular in the brick kilns. It requests the Government to provide information on the measures taken in this regard as well as the number of prosecutions, convictions and penalties applied to perpetrators of bonded labour, including in respect of the 1,029 cases that are still pending. The Committee requests the Government to continue to provide information on the number of bonded labourers identified, withdrawn and rehabilitated, including through the Central Sector Scheme for Rehabilitation of Bonded Labourers, 2016. It also requests the Government to continue to provide information on the functioning and effectiveness of the vigilance committees in abolishing bonded labour, especially in Delhi, Maharashtra, Odisha, Tamil Nadu, Andhra Pradesh, Karnataka and Uttar Pradesh.***

Magnitude of the problem. In its previous comments, the Committee noted the Government's indication that it had provided grants to state governments to conduct district-level surveys of bonded labour and that a large number of such surveys have already been conducted.

The Committee notes the Government's information in its report that financial assistance to the states for conducting the surveys on bonded labour has been enhanced and that proposals in this regard have been received from the States of Rajasthan, Chhattisgarh, Madhya Pradesh and Sikkim. ***The Committee requests the Government to take the necessary measures to ensure that statistical information on the nature and trends of bonded labour is made available through compiling the data collected from all the state-level surveys. The Committee trusts that the Government will provide information without delay on the magnitude of the problem of bonded labour in the country.***

2. ***Trafficking in persons.*** In its previous comments, the Committee noted the adoption of the Criminal Law (Amendment) Act No. 13 of 2013, which criminalizes trafficking in persons for the purpose of sexual exploitation under sections 370 and 370A of the Criminal Code and establishes sanctions of imprisonment and a fine. It also noted that amendments to the Immoral Traffic (Prevention) Act, of 1956 (ITPA) were still under consideration. Moreover, it noted the various measures taken by the Government to prevent trafficking of persons, including the Ujjawala Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Reintegration of victims of trafficking for commercial sexual exploitation, as well as the measures taken to protect migrant workers, particularly women domestic workers.

The Committee notes the Government's indication that the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018, will be introduced in the forthcoming session of the Parliament for approval. The Committee notes that this Bill provides for the prevention, rescue and rehabilitation of trafficked persons and establishes stringent penalties, including confiscation, attachment and forfeiture of properties of persons convicted for offences related to trafficking of persons. With regard to the implementation of the Ujjawala Scheme, the Government indicates that, within this scheme, 270 projects are functioning in the country, including 148 rehabilitation homes and a total of 5,522 victims of trafficking are currently benefiting from this scheme.

The Committee further notes from a report of the National Human Rights Commission, 2017, that a Standard Operating Procedure (SOP) for Combating Trafficking in Persons was developed. The SOP provides for a step-by-step guidance to anti-trafficking professionals and other stakeholders involved in the identification, rescue, investigation, rehabilitation and reintegration of victims and the prosecution of the accused. The Committee notes, however, that according to a document entitled "Draft Policy on Rehabilitation and Combating Trafficking of Women and Children of the Government of the National Capital Territory, 2018", the problem of trafficking of women and children for the

purpose of sexual exploitation, which is prevalent at various levels such as local, inter-district, inter-State and cross-border, has assumed alarming proportions in recent years. According to the National Crime Records Bureau, trafficking of minor girls, has surged 14 times over the last decade. ***The Committee therefore urges the Government to strengthen its efforts to prevent and combat trafficking in persons, paying special attention to the situation of women and girls, and to take measures to ensure that all persons who engage in trafficking in persons are subject to thorough investigations and prosecutions, and that sufficiently effective and dissuasive penalties are applied in practice. The Committee encourages the Government to continue to take measures to provide appropriate protection and assistance to victims of trafficking, including through the Ujjawala Scheme. Lastly, the Committee expresses the firm hope that the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018, will be adopted in the near future. It requests the Government to provide information on any progress made in this regard.***

3. ***Culturally sanctioned practices involving sexual exploitation.*** In its previous comments, the Committee noted the prevalence of the *devadasi* system, a culturally sanctioned practice in certain states of India, under which lower caste girls were dedicated to local “deities” or objects of worship and once initiated as *devadasi* were sexually exploited by followers of the “deity” within the local community as they grew up. The Committee noted that the *devadasi* system constituted forced labour within the meaning of the Convention, since girls were dedicated as *devadasi* without their consent and were subsequently compelled to engage in sexual activities with community members under duress. It also noted several laws which criminalize this practice, including: the Karnataka Devadasi (Prohibition of Dedication) Act, 1982; the Maharashtra Devadasi Prohibition Act, 2005, and the Devadasi Prohibition Rules, 2008; and the Andhra Pradesh Devadasi (Prohibition of Dedication) Act, 1988. Moreover, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Ordinance (No. 1) of 2014, makes it an offence to perform or promote dedicating a scheduled caste or a scheduled tribe woman to a deity, idol, object of worship, temple or other religious institution as a *devadasi* or any other similar practices. The Committee further noted the information provided by the Government on the various rehabilitation programmes and measures implemented in the States of Karnataka, Maharashtra and Andhra Pradesh in order to assist ex-*devadasis* and their children. The Committee urged the Government to take the necessary measures to bring an end to the *devadasi* system in practice.

The Committee notes the Government’s indication that the State Government of Maharashtra has established the District Devadasi Practice Control Committees in 34 districts of the state. Moreover, the State Government, through the Women and Child Development Department has been organizing various programmes and schemes to encourage NGOs to prevent the practice of the *devadasi* system as well as to implement various public awareness measures for the rehabilitation of identified *devadasis* and their children.

The Committee notes, however, that according to a study conducted in collaboration with ILO, entitled “Gender based violence on Scheduled Caste girls: A rapid assessment of the Devadasi practice in India”, 2015, the *devadasi* system is prevalent mainly in the States of Karnataka, Andhra Pradesh, Telangana and Maharashtra. This report also makes a reference to the One-man Commission report of 2013 which estimated that about 450,000 *devadasis* are spread over many states of India. The Committee further notes that according to the press release of 25 September 2017 of the National Human Rights Commission of India, legal notice has been issued to the Governments of Tamil Nadu and Andhra Pradesh over allegations of the continuation of the practice of the *devadasi* system. The Committee once again notes with ***concern*** the persistence of this culturally sanctioned practice involving sexual exploitation. ***The Committee therefore urges the Government to take the necessary measures to bring an end to the devadasi system in practice, including through enforcement of the legislation adopted in the different states. It requests the Government to continue to provide information on the measures taken in this regard and the results achieved in terms of the number of women and girls that have been withdrawn and rehabilitated. Lastly, the Committee requests the Government to provide information on the number of investigations, prosecutions and convictions concerning the practice of devadasi, as well as the specific penalties imposed, including copies of the relevant court decisions.***

4. ***Forced labour of children. Legislative framework.*** Further to its previous comments, the Committee notes with ***interest*** that the Government has enacted the Child Labour (Prohibition and Regulation) Amendment Act, 2016, (CLPRA 2016) which came into force on 1 September 2016. The Committee notes that this Act contains provisions prohibiting the employment of children below 14 years of age in any occupation and the employment of children and adolescents under 18 years of age in hazardous occupations and processes. It also establishes strict penalties for the violation of these provisions. With regard to the implementation of the CLPRA 2016, the Committee notes the Government’s information that in 2017, 266,891 inspections were carried out, 1,711 violations were identified, and 1,227 prosecutions and 683 convictions were made. In 2018, 125,429 inspections were carried out, 139 violations were registered, and 73 prosecutions and 174 convictions were made. The Committee also takes due note of the detailed information provided by the Government on the various measures, including legislative, awareness-raising, monitoring, rescue and rehabilitation measures taken by the Governments of Gujarat, Tamil Nadu and Maharashtra to eliminate forced child labour, in particular in the cotton industry. Finally, the Committee welcomes the ratification by the Government of India of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), in June 2017. ***The Committee requests the Government to provide information on the application in practice of the Child Labour (Prohibition and Regulation) Amendment Act of 2016 in its first report on the application of Convention No. 182 for India.***

The Committee is also raising other matters in a request addressed directly to the Government.

Indonesia

Forced Labour Convention, 1930 (No. 29) (ratification: 1950)

Articles 1(1), 2(1) and 25 of the Convention. 1. *Trafficking in persons.* (a) *Prevention and law enforcement.* The Committee previously noted the adoption of Act No. 21 of 2007 on trafficking in persons and the information on court decisions handed down under this Act, according to which, three perpetrators convicted of trafficking received penalties of up to four years' imprisonment. The Committee also noted that, in 2013, the International Organization for Migration (IOM) together with the Government provided training to officials from the police, immigration, army, prosecutors and local government on people smuggling and migration issues. However, the Committee noted that, according to the 2013 report of the project entitled "Protecting and Empowering Victims of Trafficking in Indonesia" implemented in cooperation with the United Nations Trust Fund for Human Security, Indonesia remained a major source country for women, children and men who are subjected to trafficking for sexual exploitation and forced labour, with estimates on the number of victims ranging from 100,000 to 1 million persons annually.

The Committee notes the Government's information in its report that, in 2017, judicial proceedings were initiated for 233 cases of trafficking in persons. A total of 222 cases have been resolved, while 31 cases have entered into the appeal process. The Government states that measures have been taken to strengthen the capacity of officers involved in combating trafficking in persons, including prosecutors, judges, labour inspectors, police officers, immigration officers and officers from the Ministry of Maritime Affairs and Fisheries. The Government also indicates that a specialized task force, namely Task Force 115, was established to strengthen law enforcement regarding trafficking. Moreover, Law No. 18 of 2017 concerning the protection of Indonesian Migrant Workers provides for punishment for officials involved in the crime of trafficking in persons. However, the Committee notes from the 2017 concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families of the United Nations (CMW) that, although rates of prosecution for trafficking have risen in recent times, they remain low and perpetrators are not adequately punished. Moreover, trafficking-related corruption and complicity at all levels of government remains pervasive (CMW/C/IDN/CO/1, paragraph 56). ***The Committee therefore requests the Government to strengthen its efforts to ensure that all persons who engage in trafficking and related offences are subject to thorough investigations and prosecutions. It also requests the Government to continue to provide information on the application of Act No. 21 of 2007 in practice, including the number of investigations, prosecutions and convictions, as well as the specific penalties imposed. The Committee further requests the Government to continue to take measures to strengthen the capacity of law enforcement officials and to ensure that complicit officials receive adequate punishment. In this regard, it requests the Government to provide information on the activities carried out by the Task Force 115 and the application of Law No. 18 of 2017 in practice in relation to the punishment for officials involved in the crime of trafficking.***

(b) *Protection and reintegration of victims.* In its previous comments, the Committee noted the Government's indication that an Anti-trafficking in Persons Task Force had been established in 21 provinces and 72 districts/cities, pursuant to section 4 of Presidential Decree No. 69/2008. Responsibilities of the Anti-trafficking in Persons Task Force included identifying victims of trafficking and providing them with assistance such as medical and legal assistance as well as family tracing, repatriation and social reintegration. The Government also indicated that the Ministry of Social Affairs had established 20 Protection Home and Trauma Centres, 25 Child Social Protection Homes and one Women Social Protection Home which provide social rehabilitation services to victims of trafficking.

The Committee notes the Government's information that the Anti-trafficking in Persons Task Force has been expanded to 31 out of 34 provinces and 191 out of 543 districts/cities. Services for victims of trafficking are also provided through 123 hospital-based integrated service centres, 24 citizen service centres at the Indonesian embassies and consulates general abroad and a large number of Community Health Centres around the country. The Government states that, in 2017, 505 victims of trafficking received different types of services, of which 468 were placed at the Protection Home and Trauma Centres, 31 at the Women Social Protection Home and 6 at the Children Social Protection Homes. However, the Committee notes from the 2017 concluding observations of the CMW that victims of trafficking are not adequately protected from being prosecuted, detained or punished for illegally entering or residing in Indonesia, or for the activities in which they were involved as a direct consequence of their situation as trafficked persons (CMW/C/IDN/CO/1, paragraph 56). ***The Committee requests the Government to continue its efforts to improve the functioning of the Anti-Trafficking in Persons Task Force in order to provide appropriate protection and assistance to victims of trafficking, including foreign victims trafficked to Indonesia. It also requests the Government to continue to provide information on the specific measures taken in this regard. The Committee further requests the Government to provide information on the number of victims of trafficking who are benefiting from the services of the Task Force as well as from the protection homes and service centres established by other competent entities.***

2. *Vulnerable situation of migrant workers and risk of forced labour.* *Law enforcement and monitoring.* The Committee previously noted from the observations of the International Trade Union Confederation (ITUC) that Indonesian migrants seeking overseas employment in domestic work were required to apply through government-approved private recruitment agencies as stipulated under section 10 of Law No. 39 of 2004 concerning the Placement and Protection of Indonesian Overseas Workers. In its observations, the ITUC, along with the Confederation of Indonesian

Prosperity Trade Union (KSBSI), expressed extreme concern at the high incidence of exploitation and forced labour in the migration process and the Government's failure to properly regulate, monitor and punish both recruitment agencies and brokers working on their behalf and violating Laws No. 39 of 2004 and No. 21 of 2007. The ITUC alleged that the Government had not taken appropriate measures for the effective enforcement of the provisions of Law No. 39 of 2004 and that there was little evidence of the Indonesian authorities investigating or imposing effective sanctions against recruitment agencies for not complying with their responsibilities under the legislation. In this regard, the ITUC indicated that the only data available with regard to sanctions issued for violating Law No. 39 of 2004 was in 2011, whereby 28 recruitment agencies had their licenses revoked. The Committee noted the Government's indication that the new Regulation No. 3 of 2013 on the Protection of Migrant Workers Abroad sets out a protective framework for migrant workers during pre-placement, placement and post placement periods. The Government also stated that it had imposed administrative sanctions for violations of several provisions of Law No. 39 of 2004 in the form of written warnings; the temporary termination in part or entire business activities of migrant workers' placement centres; and permit revocation. In 2015, the Ministry of Manpower revoked the operational permits of 18 placement agencies.

The Committee notes the Government's information that Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers puts emphasis on preventive measures by strengthening the role of village government and provides for heavier punishment for non-respect of procedural requirements regarding the placement of Indonesian migrant workers. Moreover, the establishment of one-stop integrated services simplifies the procedures for the placement of migrant workers abroad, leading to a faster, cheaper and safer labour migration process. The Government also indicates that it has established a monitoring system for the performance of private migrant worker placement agencies. The National Agency for the Protection and Placement of Indonesian Migrant Workers and the National Police have carried out a number of inspection activities at private placement agencies. In 2016, the operational permits of 44 private placement agencies were revoked, while the business activities of 202 agencies were suspended. In 2017, only six private placement agencies had their licenses revoked, while two had their business suspended. Currently, there are 447 private placement agencies operating in the country. Violations detected include the absence of provision of training, pre-departure briefing, electronic ID card or social security to migrant workers, violation of working conditions requirements (such as wages and working hours), and counterfeiting the identity of prospective migrant workers. Administrative sanctions were also imposed on private agencies violating the ban on the placement of Indonesian migrant workers with individual employers residing in the Middle Eastern countries. The Government further indicates that, since 2015, the competent authority has successfully prevented 4,626 workers from being recruited abroad through private agencies in violation of the relevant procedural requirements.

Furthermore, the Committee notes from the 2017 concluding observations of the CMW that Indonesian migrant workers frequently face abuse, harassment and exploitation at the workplace, including servitude, sexual harassment, physical mistreatment and the withholding of payment (CMW/C/IDN/CO/1, paragraph 50). The CMW is also concerned about reports that undocumented migrants working in Indonesia are frequently subjected to labour and sexual exploitation, including forced labour, particularly in the fisheries, construction, agriculture, mining, manufacturing, tourism and domestic work sectors (paragraph 32). While taking due note of the measures taken by the Government, the Committee once again recalls the importance of taking effective action to ensure that the system of recruitment and employment of migrant workers does not place them in a situation of increased vulnerability, particularly where they are subjected to abusive practices amounting to forced labour but have limited access to legal remedies due to their irregular status. ***The Committee therefore once again urges the Government to strengthen its efforts to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour, and to provide information on the measures taken in this regard. It also requests the Government to take the necessary measures to ensure the effective application of relevant legislation, including Law No. 39 of 2004, Regulation No. 3 of 2013 and Law No. 18 of 2017, and to provide information on the number of violations detected and on the specific penalties imposed.***

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)

Article 1(a) of the Convention. Imposition of penalties involving compulsory labour as a punishment for expressing views opposed to the established political, social or economic system. 1. *Penal Code.* In its previous comments, the Committee noted that sections 154 and 155 of the Criminal Code establish a penalty of imprisonment (involving compulsory labour) for up to seven years and four-and-a-half years, respectively, for a person who publicly gives expression to feelings of hostility, hatred or contempt against the Government (section 154) or who disseminates, openly demonstrates or puts up a writing containing such feelings, with the intent to give publicity to the contents or to enhance the publicity thereof (section 155). It also noted that the Constitutional Court, in its ruling on Case No. 6/PUU-V/2007, found sections 154 and 155 of the Criminal Code to be contrary to the Constitution of 1945. The Committee further noted that, in ruling No. 013-022/PUU-IV/2006, the Constitutional Court found that it was inappropriate for Indonesia to maintain sections 134, 136 bis and 137 of the Criminal Code (respecting deliberate insults against the President or the Vice-President), since they negate the principle of equality before the law, diminish freedom of expression and opinion, freedom of information and the principle of legal certainty. The Constitutional Court stated that the new draft text of the Criminal Code must not include similar provisions. The Committee noted the Government's indication that amendments

to the Criminal Code were ongoing, and that sections 154 and 155 of the Criminal Code do not have any binding legal force with the decision of the Constitutional Court.

The Committee notes the Government's information in its report that amendments to the Criminal Code are still ongoing. ***Noting that the Government has been referring to amendments to the Criminal Code since 2005, the Committee once again urges the Government to take the necessary measures to ensure their adoption in the near future, taking into account the rulings of the Constitutional Court. It requests the Government to provide information on any progress made in this regard and to provide a copy of the amendments once adopted.***

2. *Law No. 27 of 1999 on the Revision of the Criminal Code.* In its earlier comments, the Committee noted that under section 107(a), (d) and (e) of Law No. 27 of 1999 on the Revision of the Criminal Code (in relation to crimes against state security), sentences of imprisonment may be imposed upon any person who disseminates or develops the teachings of "Communism/Marxism–Leninism" orally, in writing or through any media, or establishes an organization based on such teachings, or establishes relations with such an organization, with a view to replacing *Pancasila* as the State's foundation. It noted the Government's statement that Law No. 27 of 1999 cannot be amended due to the mandate stated in Law No. I/MPR/2003, on the status of legislative provisions. Section 2 of Law No. I/MPR/2003 states that Decree No. XXV/MPRS/1966 (which relates to the dissolution of the Communist Party of Indonesia, the prohibition of the Indonesian Communist Party and the prohibition of activities to disseminate and develop a Communist/Marxist–Leninist ideology or doctrine) shall remain valid, and shall be enforced with fairness and respect for the law. Recalling that *Article 1(a)* prohibits all recourse to compulsory labour, including compulsory prison labour, as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system, the Committee urged the Government to take the necessary measures to bring section 107(a), (d) and (e) of Law No. 27 of 1999 into conformity with the Convention.

The Committee notes the Government's information that the Marxism and Communism is considered as an ideology contradicting *Pancasila*, therefore the teaching and practice of this ideology is banned and punishable under law. The Government states that it will not change its position on this matter. The Government also repeatedly states that the citizens of Indonesia enjoy freedom of expression, and that sanctions of imprisonment shall be imposed only where such expression endangers the national stability. Moreover, the Government indicates that the job training programme in prison is not a form of punishment, but a separate training and capacity-building programme, for which only those who have nearly finished their sentence can be considered eligible. The Committee once again points out that, pursuant to sections 14 and 19 of the Criminal Code and sections 57(1) and 59(2) of the Prisons Regulations, persons sentenced to imprisonment shall perform work imposed on them, which constitutes compulsory prison labour.

The Committee notes with ***concern*** that despite raising this issue since 2002, the Government does not intend to take any measures in this regard. The Committee once again reminds the Government that the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite to violence or engage in preparatory acts aimed at violence, but sanctions involving compulsory labour fall within the scope of the Convention where they enforce a prohibition of the peaceful expression of views or of opposition to the established political, social or economic system (see 2012 General Survey on the fundamental Conventions, paragraph 303). ***The Committee therefore once again urges the Government to take the necessary measures to bring section 107(a), (d) and (e) of Law No. 27 of 1999 into conformity with the Convention, by clearly restricting the scope of these provisions to situations connected with the use of violence, or incitement to violence, or by repealing sanctions involving compulsory labour thereby ensuring that persons who peacefully express political or ideological views opposed to the established political, social or economic system cannot be sentenced to a term of imprisonment which includes the obligation to work. It once again encourages the Government to pursue an examination of these provisions within the ongoing revision of the Criminal Code and to provide information on any progress made in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Iraq

Forced Labour Convention, 1930 (No. 29) (ratification: 1962)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. In its earlier comments, the Committee noted the adoption of Anti-Trafficking Law No. 28 of 2012, which contains a detailed definition of the constitutive elements of the crime of trafficking in persons, criminalizes trafficking in persons for sexual exploitation and forced labour, and establishes prison sentences of up to 15 years. The Committee noted that, according to the 2015 concluding observation of the United Nations (UN) Human Rights Committee, trafficking in persons and forced labour remain significant problems in Iraq. The Human Rights Committee recommended that the Government ensure that all cases of human trafficking and forced labour are thoroughly investigated; that perpetrators are brought to justice; and that victims receive full reparation and means of protection, including access to adequately resourced shelters. It should also adopt the measures necessary to guarantee that victims, in particular of trafficking for the purpose of sexual exploitation, are not punished for activities carried out as a result of having been subjected to trafficking.

The Committee notes the Government's indication in its report that pursuant to section 6 of the Labour Code of 2015, forced labour in all its forms, including trafficking in persons and slavery, is prohibited. The Government also refers

to the Anti-Trafficking Law No. 28 of 2012, under which sexual exploitation and forced labour are punishable with imprisonment of up to 15 years. The Committee notes the absence of information in the Government's report on the measures taken to combat trafficking in persons and protect victims of trafficking. The Committee notes, moreover, that according to several reports of the United Nations, including the UN Human Rights Council, in June 2016 (A/HRC/32/CRP.2, paragraphs 54–126), there is a significant level of trafficking of Yazidi women and girls for both sexual and labour exploitation in the country. The Committee also observes that in its Resolution No. 2388 of 2017, the Security Council reiterates its condemnation of all acts of trafficking, particularly the sale or trade in persons undertaken by the Islamic State of Iraq and the Levant (ISIL, also known as Da'esh), including of Yazidis and other persons belonging to religious and ethnic minorities (S/RES/2388, paragraph 10). ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee once again urges the Government to take the necessary measures to prevent, suppress and combat trafficking in persons. In this regard, the Committee once again requests the Government to provide information on the application in practice of Anti-Trafficking Law No. 28 of 2012, indicating the number of investigations and prosecutions carried out, and the specific penalties applied. Finally, the Committee requests the Government to provide information on the measures taken to protect victims of trafficking.***

The Committee is raising other matters in a request addressed directly to the Government.

Jamaica

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Article 1(c) and (d) of the Convention. Disciplinary measures applicable to seafarers. For a number of years, the Committee has been referring to the following provisions of the Jamaica Shipping Act, 1998, under which certain disciplinary offences are punishable with imprisonment (involving an obligation to perform labour under the Prisons Law):

- section 178(1)(b), (c) and (e), which provides for penalties of imprisonment, inter alia, for wilful disobedience or neglect of duty or combining with any of the crews to impede the progress of the voyage; an exemption from this liability applies only to seafarers participating in a lawful strike after the ship has arrived and has been secured in good safety to the satisfaction of the master at a port, and only at a port in Jamaica (section 178(2)); and
- section 179(a) and (b), which punishes, with similar penalties, the offences of desertion and absence without leave.

The Committee recalled, referring to paragraphs 179–181 of its 2007 General Survey on eradication of forced labour, that provisions under which penalties of imprisonment (involving an obligation to perform labour) may be imposed for desertion, absence without leave or disobedience, are not in conformity with the Convention. In this regard, the Committee noted the Government's indication that amendments would be made to the Shipping Act, 1998 after a general review and updating of the legislation.

The Committee notes the Government's statement in its report that amendments to the Shipping Act of 1998 are intended to bring it into conformity with the Maritime Labour Convention of 2006 (MLC, 2006) and hence do not cover the above provisions. The Government also indicates that the shipping industry of Jamaica and the country as a whole do not use any forms of forced or compulsory labour, including as a means of labour discipline. Moreover, the Government states that the disciplinary procedures of the Shipping Association of Jamaica are circumscribed by the Joint Labour Agreement between the Shipping Company and the Unions that represent workers in the Bargaining unit, such as the Bustamante Industrial Trade Union, the Trade Union Congress and the United Port Workers and Seamen's Union. The Government also states that during the period of review, no decisions have been made by the court of law or other tribunals in relation to the above provisions of the Shipping Act.

The Committee takes due note of the Government's statement and referring to paragraph 312 of its General Survey of 2012 on the fundamental Conventions, it recalls that *Article 1(c)* of the Convention expressly prohibits the use of any form of forced or compulsory labour as a means of labour discipline and that the punishment of breaches of labour discipline with sanctions of imprisonment (involving an obligation to perform labour) is incompatible with the Convention. ***Observing that the above provisions of the Shipping Act have been the subject of comments since 2002, the Committee urges the Government to take the necessary measures to ensure the amendments of the Shipping Act are adopted so as to bring the legislation into line with the Convention and the indicated practice. It requests the Government to provide information on the progress made in this regard.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Japan

Forced Labour Convention, 1930 (No. 29) (ratification: 1932)

The Committee notes the observations of the Labour Union of Migrant Workers (LUM) received on 24 October 2016 and 26 September 2017. It also notes the joint observations of the Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU) received on 1 September 2016 and 4 September 2018, as well as the Government's reply received on 7 November 2018. The Committee further notes the observations of the Japanese Trade Union Confederation (JTUC-RENGO) communicated with the Government's report. Lastly, the Committee notes the observations of the All Japan Shipbuilding Trade Union–Kanto Region received on 23 November 2018.

Articles 1(1), 2(1) and 25 of the Convention. 1. Technical Intern Training Programme. In its previous comments, the Committee noted the occurrence of labour rights violations amounting to forced labour within the

Technical Intern Training Programme. The Programme, monitored by the Japan International Training Cooperation Organization (JITCO), was established to develop the human and industrial resources of developing countries to ensure the transfer of industrial technology, skills and knowledge, under which foreign nationals could enter Japan as “interns” for one year and remain for another two years as “technical interns”.

The Programme was revised in July 2010 with a view to strengthening the protection of interns and technical interns, particularly by granting them residence for “Technical Intern Training” for a maximum period of three years and the protection afforded by labour laws and regulations. In addition, dispatching organizations and receiving organizations and enterprises were prohibited from collecting deposits and penalty charges and sanctions applicable to organizations found guilty of human rights abuses were strengthened. However, the JTUC–RENGO indicated that 15.9 per cent of interns who have returned to their country reported that they were required to pay a deposit to the employment agency. The LUM indicated that, despite the changes introduced in 2010, dispatching organizations continued to collect payments in the guise of pre-training or transport fees, which caused debts for interns and made them vulnerable to dismissal or expulsion, particularly as they are not permitted to change employer. The LUM also stated that the number of deaths among foreign interns was unusually high for persons who were young and healthy. Moreover, according to a study conducted by the Administration Evaluation Bureau (AEB) of the Ministry of Internal Affairs and Communication, of the 846 entities examined, in 157 the number of interns made up half of their staff, and 34 only employed interns. In its reply, the Government indicated that the Immigration Bureau of the Ministry of Justice was working actively to monitor enterprises receiving interns. Any violation reported was notified to the enterprise and, where necessary, the right to receive new interns could be suspended for a period of five years. When serious violations were suspected, the Immigration Bureau worked together with labour standards inspection offices, and the most serious cases were referred to the Public Prosecutor’s Office. In 2013, inspections were carried out and guidance provided to 2,318 workplaces. Violations of labour legislation were found in 1,844 cases, and 12 cases of serious violations were referred to the Public Prosecutor’s Office. The Government also indicated that the Ministry of Health, Labour and Welfare instructed JITCO to conduct guidance visits and refer certain cases to the regional labour standards inspection offices. Moreover, a Bill on technical intern training and the protection of technical interns was submitted to Parliament in March 2015. Noting the above information, the Committee requested the Government to continue taking measures to strengthen the protection of foreign technical interns.

The Committee notes from the observations of the JTUC–RENGO that, both in 2016 and 2017, according to the results of the inspections carried out by the labour standards inspection offices, violations of labour law provisions were found in 70 per cent of the participating organizations in the Technical Intern Training Programme. Moreover, according to section 14 of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees (hereafter “the Technical Intern Training Act”), which was adopted in November 2016, onsite inspection activities are carried out only once a year for supervising organizations and once in three years for implementing individual enterprises. The JTUC–RENGO also indicates that channels of individual complaints and consultations are limited to phone calls and emails, and that dates and times are set for phone consultation depending on the language in service, which does not meet the needs of some urgent cases where immediate protection is required. The JTUC–RENGO considers that it is necessary to establish a one-stop service, including security shelters, for interns in their native language.

In its observations, the LUM considers that the legislative reform has solved some problems while creating new ones. The Technical Intern Training Act and its implementing ordinances expand the programme on a large scale, allowing the supply of a considerable number of young workers who receive low wages and do not have right to freely quit a job. For enterprises endorsed by the competent authority as excellent, the duration of the programme may be extended from three years to five years. However, the criteria to determine an excellent enterprise do not address essential problems, such as the restriction of overtime work. Moreover, the new framework significantly increases the maximum number of interns that an organization or enterprise is allowed to accept, which impairs the capacity of the receiving entities to provide genuine training to interns. In addition, the threat of deportation and the prohibition of changing employers, which is the most fundamental factor that increases the risk of forced labour, is not addressed by the new Act. The LUM also indicates that the Organization for Technical Intern Training (OTIT), which supervises and monitors the implementation of the Programme under the new Act, covers about 2,000 supervising organizations, 35,000 implementing enterprises and 230,000 technical intern trainees with only 330 staff. The LUM once again points out that a large number of violations were detected by the labour standard inspection agencies, while only about 1 per cent were sent to the Public Prosecutor’s office. Violations identified included long working hours (up to 130 hours of overtime work per month), non-payment or under-payment of wages and those related to occupational safety and health. Additionally, according to the statistical information from the Immigration Bureau, 380 cases of labour rights violations involving interns as victims were detected in 2016, including 121 cases related to payment of wages, 94 cases related to forged or altered identity documents and 51 cases related to “name-lending” of host entities (or contract substitution). In particular, the cases of “name-lending” have been significantly increasing in recent years. The LUM further indicates that industrial accidents and deaths have increased among interns. In 2015, 30 deaths were recorded among interns, including eight caused by cerebral or cardiac diseases and two by suicide. In August 2016, the Labour Standards Inspection Office of the region of Gifu determined the death of a Filipino intern aged 27 as an industrial accident due to extreme fatigue caused by excessive long working hours.

The Committee notes the Government's information in its report that the Technical Intern Training Act sets out prohibitions of human rights violations against interns and provides for penal sanctions for certain types of violations. According to section 49 of the Act, interns may report violations of the Act by supervising organizations or implementing enterprises to the competent ministers (Minister of Justice and Minister of Health, Labour and Welfare). The OTIT responds to complaints from interns by phone and email in major languages such as Vietnamese and Chinese. The Government also indicates that, the OTIT entered into operation in November 2017. As of 31 May 2018, the statistical information on inspections carried out by the OTIT is not yet available. In 2016, the labour standards inspection offices carried out inspections at and provided guidance to 5,672 training implementing places. 40 cases of serious violations against interns were referred to the Public Prosecutor's Office. However, there is no statistical information on criminal cases in which interns are involved as victims. Moreover, the Government signed memoranda of cooperation with nine sending countries, including Bangladesh, Cambodia, India, Laos, Mongolia, Myanmar, Philippines, Sri Lanka and Viet Nam.

While taking due note of the adoption of the Technical Intern Training Act and the measures undertaken by the Government, the Committee observes that the supervision and protection measures afforded by the new legal framework do not seem to be sufficient, taking into consideration the large number of interns involved, their increased vulnerability due to the long training period of up to five years and the restrictions that prevent them from changing training sites. The Committee notes with **concern** the persistence of labour rights' violations and the continued abusive working conditions of technical training interns that amount to forced labour, such as wage arrears, long working hours, falsified identity documents and contract substitution. ***The Committee therefore urges the Government to take the necessary measures to ensure that the foreign technical interns are fully protected from abusive practices and working conditions that amount to forced labour, including through effective inspection activities at receiving entities, accessible channels for interns to report the abusive situations to which they are subjected, as well as prompt responses and actions to these reports. The Committee also requests the Government to provide information on the application in practice of the Technical Intern Training Act and its implementing ordinances, including the number and nature of the violations reported, the number of cases that have led to prosecution and convictions, with an indication of the situations that gave rise to these convictions.***

2. "Comfort women". Recalling that it has been examining since 1995 the issues of "comfort women" during the Second World War, the Committee previously noted the Government's statement that it remained committed to the official position on this matter and had already expressed sincere apologies and remorse to the former "comfort women". The people and Government of Japan cooperated to establish the Asian Women's Fund (AWF) in 1995 to extend atonement from the Japanese people to the former "comfort women" and to ensure that their sincere feelings of apologies and remorse would reach the former "comfort women" to the greatest extent possible. The AWF gave atonement money from private sector donations to 285 women. The Government also referred to the letters of apologies and remorse signed by the Prime Minister, which were sent to the "comfort women" who received atonement money. After the completion of the last project in Indonesia, the AWF was dissolved in March 2007, but the Government had continued to implement follow-up activities. As part of this follow-up, the Government reiterated that it entrusted the people who were involved in the AWF to implement visiting care activities and group counselling activities, which took place in 2015. The Government also pointed out that former "comfort women" who received or wanted to receive benefits from the AWF were subject to "harassment" from certain groups in the Republic of Korea (ROK). It was regrettable that not all the former "comfort women" benefited from the activities of the AWF owing to these circumstances. The Government added that it had sincerely dealt with the issues of reparations, property and claims relating to the Second World War, including those related to the issue of "comfort women", in accordance with its obligations under the San Francisco Peace Treaty. The issues of claims by individuals had been legally settled with the parties to these treaties, in particular the 1965 Agreement on the Settlement of Problems concerning Property and Claims and on Economic Cooperation between Japan and the ROK. While observing the Government's statement in reply to its earlier request for certain follow-up activities to be undertaken by the AWF to meet the "comfort women", the Committee noted that no concrete outcome had been achieved, and requested the Government to make efforts to achieve reconciliation with the victims in response to their expectations and claims.

The Committee notes in the joint observations of the FKTU and the KCTU the reference to the Agreement reached between the ROK and Japan on the issue of "comfort women" in 2015 (hereafter "the 2015 Agreement"), which declares that the issue has been resolved "finally and irreversibly". The FKTU and the KCTU indicate that the agreement does not reflect the demands of the victims. According to it, victims were not fully consulted through the process of the conclusion of the 2015 Agreement. Moreover, the Government of Japan insists that the legal resolution has been completed through the 1965 Treaty with the ROK and that the fund of ¥1 billion (around US\$9 million) provided under the 2015 Agreement was not a reparation. The FKTU and the KCTU also refer to the statements of the Government of Japan and its officials on different occasions denying that the "comfort women" were sex slaves. It further indicates that, on 30 August 2016, 12 victims brought a law suit against the Government of the ROK, expressing their opposition to the 2015 Agreement by which the Government of Japan did not acknowledge any legal responsibilities.

The Committee notes the Government's repeated statement in its report that it has no intention of denying or trivializing the "comfort women" issue. In this regard, Prime Minister Abe is deeply pained to think of the "comfort

women” who experienced immeasurable pain and suffering beyond description, as already expressed by previous Prime Ministers. As a result of diplomatic efforts, the Government of Japan and the Government of the ROK reached an Agreement on this issue in December 2015, which declares that the “comfort women” issue is resolved “finally and irreversibly” and that the two Governments will refrain from accusing or criticizing each other regarding this issue in the international community, including at the United Nations. In addition, in accordance with the Agreement, the Reconciliation and Healing Foundation was established by the Government of the ROK, to which the Government of Japan contributed ¥1 billion from its governmental budget. Under this Foundation, several projects have been carried out to recover the honour and dignity of former “comfort women” and to heal their psychological wounds. So far, among the 47 former “comfort women” who were alive at the time of the conclusion of the 2015 Agreement, 36 were in favour of the projects and 34 have received medical and welfare support through the projects. In its response to the joint observations of the FKTU and the KCTU, the Government also indicates that it has conducted a full-scale fact-finding study on the “comfort women” issue since early 1990’s, and that the “forceful taking away” of “comfort women” by the military and government authorities could not be confirmed in any of the documents that the Government was able to identify in the abovementioned study.

The Committee notes from the “Report on the Review of the Korea–Japan Agreement of 28 December of 2015 on the Issue of ‘Comfort Women Victims’”, published by the Ministry of Foreign Affairs of the ROK, that the victim-centred approach was not sufficiently incorporated in the course of the “comfort women” consultation process, and that as long as a resolution is not accepted by the victims as was the case with the 2015 Agreement, the “comfort women” issue will continue to be raised as an unresolved issue, even if the two Governments declare that it is “finally and irreversibly resolved”. This point of view is shared by the UN Committee on the Elimination of Discrimination against Women (CEDAW, CEDAW/C/JPN/Q/7-8/Add.1, paragraph 51) in its concluding observations of 2016, and the UN Committee on the Elimination of Racial Discrimination (CERD, CERD/C/JPN/CO/10-11, paragraph 27) in its concluding observations of 2018.

The Committee also notes that, in its concluding observations of 2016, the CEDAW regretted that there had been an increase in the number of statements from public officials and leaders regarding the Government’s responsibility for violations committed against “comfort women”, which have the effect of re-traumatizing victims. Similarly, in its concluding observations of 2018, the CERD expressed its concern at statements by some public officials, minimizing the responsibility of the Government with respect to “comfort women”, and their potential negative impact on survivors.

The Committee takes due note of efforts made by the Government to resolve the issue of “comfort women”, especially the recent Agreement reached with the ROK in 2015. The Committee also welcomes the concrete outcomes achieved in this regard, noting that 34 out of 47 victims who were then alive, have received medical and welfare support through the implementation of the 2015 Agreement. However, the Committee observes that more than ten victims have refused to accept the arrangements under the 2015 Agreement and that some statements made by some governmental officials have not been conducive to reaching a reconciliation. *The Committee expresses the firm hope that, given the long-standing nature of the case, the Government will make every effort to achieve reconciliation with the remaining victims who have refused to accept the 2015 Agreement, and that adequate measures will be taken, without further delay, to achieve resolution of their claims.*

The Committee is raising other matters in a request addressed directly to the Government.

Kazakhstan

Forced Labour Convention, 1930 (No. 29) (ratification: 2001)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 19 September 2018, as well as the Government’s reply received on 18 October 2018.

Articles 1(1), 2(1) and 25 of the Convention. Forced labour of migrant workers. The Committee previously noted that section 7 of the 2016 Labour Code defines forced labour as work or service exacted from any individuals under the menace of any penalty and for which the said individual has not offered himself voluntarily. Moreover, section 128 of the 2014 Criminal Code states that purchase and sale or other transactions in respect of a person, as well as their exploitation or recruitment, transportation, transfer, harbouring and receipt for the purpose of exploitation shall be punished by imprisonment for a term of three to 15 years with confiscation of property. Furthermore, the Committee noted that, in its concluding observations of 2016, the Human Rights Committee of the United Nations expressed its concern about reports of domestic servitude, forced and bonded labour, particularly of migrant workers in the tobacco, cotton and construction industries, and abuse of migrant workers such as poor and hazardous conditions, delayed payment and confiscation of identity documents.

The Committee notes from the observations of the ITUC that, in recent years, the economic growth of Kazakhstan has transformed it from a sending to a receiving country of labour migrants. The statistics from the Ministry of Internal Affairs shows that from 100,000 to 150,000 Kyrgyz citizens were registered in the country at the end of 2017. Since the beginning of 2017, Kyrgyz migrants have been victims of repressive operations conducted by Kazakh state services, often enabled by the absence of a “regular status” of migrants within the country. Kyrgyz migrant workers fall prey to deceptive or informal recruitment practices, including misrepresentations concerning the place and nature of the work to be

performed, the amount of wages and employees' legal status. In most cases, employers retained the migrants' identity documents and did not formalize the working relationship by signing an employment contract. Many migrant workers complained of restrictions on movement and the withholding of wages. Most migrant workers reported hazardous working conditions, including excessive working hours, lack of protective equipment and medical care, as well as inadequate living conditions, such as excessive heat and lack of basic amenities. The migrant workers did not receive any social protections and often suffered from intimidation and threats.

The Committee notes that, in response to the observations of the ITUC, the Government indicates that, pursuant to section 6 of the Law on the Legal Status of Foreigners, foreigners may carry out work in the country in accordance with the procedure established by the legislation and the international treaties signed by Kazakhstan. Some restrictions are established by the legislation in this regard. For example, foreigners may not be appointed to certain positions or engaged in certain types of work. The Labour Code prohibits any kinds of discrimination in the field of labour in relation to foreign workers legally working in Kazakhstan.

In this regard, the Committee recalls that migrant workers shall be protected from forced labour practices regardless of their legal status in the country. The Committee also recalls the importance of taking effective action to ensure that the system of employment of migrant workers does not place them in situations of increased vulnerability or prevent them from reporting exploitation of employers to the competent authorities, particularly where they are subjected to abusive practices such as confiscation of identity documents, restriction of movement, hazardous working conditions or delayed payments of wages, as such practices might cause their employment to be transformed into situations that could amount to forced labour. ***The Committee therefore urges the Government to take the necessary measures to ensure that the national legislation criminalizing forced labour is effectively enforced and that migrant workers are fully protected from any abuse or exploitation that amounts to forced labour, and to provide information on the results achieved in this regard. The Committee once again requests the Government to provide a copy of Law No. 421-V ZRK of 24 November 2015 to Amend and Supplement Several Legal Acts on issues of migration and employment of the population.***

The Committee is raising other matters in a request addressed directly to the Government.

Kuwait

Forced Labour Convention, 1930 (No. 29) (ratification: 1968)

Articles 1(1) and 2(1) of the Convention. Freedom of domestic workers to terminate their employment. For a number of years, the Committee has been drawing the Government's attention to the exclusion of migrant domestic workers from the protection of the Labour Code, and has requested the Government to take the necessary measures to adopt a protective framework of employment relations that is specifically tailored to the difficult circumstances faced by this category of workers. In this regard, the Committee previously noted the adoption of a certain number of decrees and ministerial decisions, including Ministerial Decision No. 617/1992 regulating the rules and procedures for obtaining licences for the private recruitment agencies supplying domestic workers and similar workers, as well as Ministerial Decision No. 1182/2010, which defines the rights and obligations of each party in the recruitment contract (the agency, the employer, the employee). The Committee further noted that in their communications the Confederation of Indonesia Prosperity Trade Union (KSBSI) and the Indonesia Migrant Worker Union (SBMI) alleged that more than 660,000 foreign domestic workers from Asia and Africa work in Kuwait. They also indicated that embassies of labour-sending countries in Kuwait were receiving several complaints from domestic workers about non-payment of wages, excessively long working hours without rest, and physical, sexual and psychological abuse. Domestic workers had few avenues of redress, as they were excluded from the labour law and the immigration laws prohibited them from leaving or changing jobs without their employer's consent. In this regard, the Committee took note of the adoption in 2015 of Law No. 68/2015 on Employment of Domestic Workers, which provides for the respective obligations of the employer and the worker, particularly with regard to the model contract (hours of work, remuneration and rest time, as well as holidays). The Committee noted that the Law expressly prohibits passport confiscation by the employer (sections 12 and 22). The Committee requested the Government to provide information on the application in practice of Law No. 68/2015.

The Committee notes the Government's indication in its report that, the number of complaints submitted by employers to the Department of Domestic Labour reached 346 in 2018 (compared to 1,768 in 2017), whereas 73 complaints were submitted by migrant domestic workers (compared to 388 in 2017). The Government also adds that 108 cases were referred to the competent court, and that in 2018, migrant domestic workers were compensated the amount of 2,560 Kuwaiti dinars (US\$8,400) as back-salary and other entitlements. Regarding the termination of employment, the Committee also notes that the contract between the employer and the domestic worker is concluded for a period of two years and can be renewed for a similar period, unless one of the two parties notifies the other at least two months before the end of the two-year contract. Upon termination of the contract between the domestic worker and the employer, the employer must pay the domestic worker all of her/his entitlements as set forth in the contract and stipulated in this law. The contract may be renewed automatically if neither of the two parties expresses her/his wish to not renew the contract at least two months before the end of the contract. ***The Committee requests the Government to indicate the measures taken to ensure that the provisions of Law No. 68/2015 are effectively applied and enforced. The Committee also requests the***

Government to continue to provide statistical information on the number of domestic workers who have filed complaints with the Domestic Labour Department and the outcome of such complaints. With regard to the right of domestic workers to freely terminate their employment, the Committee requests the Government to provide information on the modalities and the length of the procedure for changing an employer for migrant domestic workers, including statistical information on the number of transfers that have occurred recently.

Articles 1(1), 2(1) and 25. Trafficking in persons. In its previous comments, the Committee noted the adoption of Law No. 91 of 2013 on Trafficking in Persons and Smuggling of Migrants. It noted that the Law provides for penalties for offences related to trafficking in persons for both sexual and labour exploitation (15 years and a fine). With regard to the penal sanctions imposed for the exaction of forced labour, the Committee noted that the enslavement, purchase or offering of a person is punishable by a term of five years of imprisonment and a fine (section 185 of the Penal Code). The Committee requested the Government to provide information on the application in practice of Law No. 91 of 2013 on Trafficking in Persons.

The Committee notes the Government's indication that within the Public Prosecutor's Office, a specialized Anti-Trafficking Unit has been set up to expedite cases of trafficking. The Government also indicates that the Anti-Trafficking Unit has taken a series of measures regarding the protection of victims of trafficking, including coordination with the relevant institutions in order to provide medical and psychological care and the provision of legal assistance, including access to file formal grievances.

The Committee also notes that in its concluding observations of 27 November 2017, the Committee on the Elimination of Discrimination against Women (CEDAW) of the United Nations welcomed the legal and institutional measures taken by the State party to counter trafficking in persons, including efforts to investigate cases and prosecute perpetrators. However, it is concerned about the low number of prosecutions, convictions and sentences imposed under Act No. 91 of 2013 on Trafficking in Persons and Smuggling of Migrants (CEDAW/C/KWT/CO/5 paragraph 28). ***The Committee requests the Government to continue to provide information on the measures taken by the Anti-Trafficking Unit for victims of trafficking, as well as the results achieved, including information on the number of trafficked persons who have benefited from the Unit's services. The Committee also requests the Government to provide information on the number of investigations and prosecutions carried out, and the penalties applied in cases of trafficking in persons, both for purposes of sexual and labour exploitation.***

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

Article 1(a) of the Convention. Penalties involving compulsory labour as a punishment for expressing political views. In its earlier comments, the Committee noted that Legislative Decree No. 65 of 1979, which imposed certain restrictions on the organization of public meetings and assemblies, enforceable with penalties of imprisonment (involving compulsory prison labour, under section 63 of the Penal Code), had been declared unconstitutional by the Constitutional Court in 2006. It also noted that a draft Law on Public Meetings and Assemblies had been prepared in 2008. It noted, however, that the scope of certain provisions of the draft Law (sections 10 and 15) were not limited to acts of violence (or incitement to violence), armed resistance or uprising, but seemed to allow punishment involving the obligation to work to be imposed for the peaceful expression of opinions contrary to the Government's policy and the established political system. The Committee requested the Government to take the necessary measures to ensure that the provisions of the draft Law on Public Meetings and Assemblies of 2008 would be modified.

The Committee notes the Government's indication in its report that due consideration will be given to the amendment of the Law on Public Meetings and Assemblies of 2008, in order to bring it in line with the Convention. The Committee notes that the Government expresses its commitment to send a copy of the Law, once it is adopted. ***The Committee once again requests the Government to take the necessary measures without delay to bring the national legislation regulating public meetings and assemblies into conformity with the Convention in order to ensure that no prison sentences involving compulsory labour are imposed on persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. The Committee requests the Government to provide a copy of the Law on Public Meetings and Assemblies, once it has been adopted.***

The Committee is raising other matters in a request addressed directly to the Government.

Lebanon

Forced Labour Convention, 1930 (No. 29) (ratification: 1977)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018 and requests the Government to provide its comments in this respect. The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Articles 1(1) and 2(1) of the Convention. Vulnerable situation of migrant domestic workers to conditions of forced labour. In its earlier comments, the Committee noted the observation of 2013 from the International Trade Union Confederation (ITUC), indicating that there are an estimated 200,000 migrant domestic workers employed in Lebanon. These workers are excluded from the protection of the Labour Law, have a legal status tied to a particular employer under the *kafala* (sponsorship) system, and

legal redress is inaccessible to them. Moreover, they are subjected to various situations of exploitation, including delayed payment of wages, verbal, and sexual abuse. The Committee also requested the Government to take the necessary measures to ensure that the Bill regulating the working conditions of domestic workers, as well as the Standard Unified Contract (SUC) regulating their work are adopted in the very near future.

The Committee notes the Government's indication in its report that, the Bill regulating the working conditions of domestic workers was drafted in conformity with Domestic Workers Convention, 2011 (No. 189), and the Bill has been submitted to the Council of Ministers for discussion. The Bill will provide a certain number of safeguards, including social security coverage; decent accommodation; the timely payment of wages through bank transfer; hours of work (eight hours per day); sick leave; and a day of rest. The Government also indicates that a Steering Committee has been established under the Ministry of Labour in order to deal with issues related to migrant domestic workers and is composed of relevant Ministerial Departments, representatives of the private recruitment agencies, NGOs, certain international organizations, as well as representatives of certain embassies. A representative from the ILO Decent Work Technical Support Team in Beirut is also participating in the Steering Committee.

Moreover, the Government indicates that the Ministry of Interior and the Ministry of Labour have taken a series of preventive measures, including awareness raising campaigns through the media; the establishment of a shelter "Beit al Aman" for migrant domestic workers who are facing difficulties in collaboration with Caritas; the appointment of social assistants who look into the working conditions of migrant domestic workers in their workplaces; the training of labour inspectors on decent working conditions; and the conclusion of a series of Memoranda of Understanding (MOUs) with sending countries, such as the Philippines, Ethiopia and Sri Lanka. The Government further states that the Ministry of Labour has set up a specialized office for complaints and a hotline to provide legal assistance to migrant domestic workers. Moreover, under the Recruitment Agencies of Migrant Domestic Workers Decree No. 1/168 of 2015, it is prohibited to impose recruitment fees on all workers.

The Committee further notes that in its 2015 concluding observations, the UN Committee on the Elimination of Discrimination against Women (CEDAW) welcomed the various measures adopted by the State party to protect the rights of women migrant domestic workers, including issuing unified contracts, requiring employers to sign up to an insurance policy, regulating employment agencies, adopting a law criminalizing trafficking in persons and integrating such workers into the social charter and the national strategy for social development. The CEDAW, however, expressed concern that the measures have proved insufficient to ensure respect for the human rights of those workers. The CEDAW is equally concerned about the rejection by the Ministry of Labour of the application by the National Federation of Labour Unions to establish a domestic workers' union, the absence of an enforcement mechanism for the work contracts of women migrant domestic workers, limited access for those workers to health care and social protection and the non-ratification of the Domestic Workers Convention, 2011 (No. 189). The CEDAW was further concerned about the high incidence of abuse against women migrant domestic workers and the persistence of practices, such as the confiscation of passports by employers and the maintenance of the *kafala* system, which place workers at risk of exploitation and make it difficult for them to leave abusive employers. The CEDAW was deeply concerned about the disturbing documented reports of migrant domestic workers dying from unnatural causes, including suicides and falls from tall buildings, and about the failure of the State party to conduct investigations into those deaths (CEDAW/C/LBN/CO/4-5, paragraph 37).

While taking note of the measures taken by the Government, the Committee notes with **concern** that migrant domestic workers are subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty and physical abuse. Such practices might cause their employment to be transformed into situations that amount to forced labour. ***The Committee therefore urges the Government to strengthen its efforts to provide migrant domestic workers with an adequate legal protection, by ensuring that the Bill regulating the working conditions of domestic workers will be adopted in the very near future and to provide a copy of the legislation, once adopted. The Committee also urges the Government to take the necessary measures to ensure that migrant domestic workers are fully protected from abusive practices and working conditions that amount to forced labour.***

Article 25. Penal sanctions for the exaction of forced labour. In its earlier comments, the Committee noted that according to the ITUC's information, it was found that a lack of accessible complaint mechanisms, lengthy judicial procedures, and restrictive visa policies dissuade many workers from filing or pursuing complaints against their employers. Even when workers file complaints, the police and judicial authorities regularly fail to treat certain abuses against domestic workers as crimes. The Committee also noted the Government's indication that section 569 of the Penal Code, which establishes penal sanctions against any individual who deprives another of their personal freedom, applies to the exaction of forced labour. It requested the Government to provide information on any legal proceedings which had been instituted on the basis of section 569 as applied to forced labour and on the penalties imposed.

The Committee further notes that in its 2015 concluding observations, the CEDAW observed that migrant domestic workers face obstacles with regard to their access to justice, including fear of expulsion and insecurity of residence.

The Committee notes the Government's indication that the work of migrant domestic workers is regulated by the SUC and that the application of section 569 of the Penal Code is of the competency of the judiciary when a violation is detected. The Committee also notes copies of court decisions provided by the Government. It observes that the cases are related to non-payment of wages, harassment and working conditions of migrant domestic workers. In all cases employers have been sentenced to pay a monetary penalty to compensate the workers.

While noting this information, the Committee recalls that ***Article 25*** of the Convention provides that the exaction of forced labour shall be punishable as a penal offence. ***The Committee therefore urges the Government to take the necessary measures to ensure that employers who engage migrant domestic workers in situations amounting to forced labour are subject to really adequate and strictly enforced penalties. It requests the Government to provide information on measures taken in this regard.***

The Committee is raising other matters in a request directly addressed to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Libya

Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

Articles 1(1), 2(1) and 25 of the Convention. Situations of forced labour arising from the armed conflict. Trafficking of migrant workers. The Committee previously noted the various reports from several United Nations (UN) bodies concerning the grave crisis faced by the country. It noted in particular the report on the investigation by the Office of the UN High Commissioner for Human Rights on Libya of 15 February 2016, which indicated that migrants have been arbitrarily detained or deprived of their liberty, frequently in inhumane conditions, and subjected to financial exploitation and forced labour. In this regard, the UN High Commissioner for Human Rights recommended that the Government address urgently the situation of migrants and take effective action to combat human trafficking (A/HRC/31/47, paragraphs 61 and 83(j)). The Committee also noted the UN Security Council Resolution 2240 of October 2015, which condemned all acts of migrant smuggling and human trafficking into, through and from the Libyan territory and off the coast of Libya, which undermined further the process of stabilization of Libya and endangered the lives of thousands of people (S/RES/2240 (2015)).

The Committee notes the Government's indication in its report that the legal framework that ensures the prosecution of perpetrators of trafficking in persons, includes the Penal Code and the Criminal Procedure Act. In addition, a Bill on combating trafficking in persons is being drafted. The Government also refers to the future establishment of an Anti-Trafficking Committee that will be in charge of drafting a national action plan to combat trafficking.

The Committee observes that according to the Report of the United Nations Support Mission in Libya (UNSMIL), Libya is a destination and transit country for migrants. Many suffer human rights violations and abuses in the course of their journeys. After interception by armed men believed to be from the Libyan Coast Guard, migrants are taken to detention centres or private houses and farms where they are subjected to arbitrary detention, sexual exploitation and forced labour. They are forced to work in farms, as well as in construction and as domestic workers, road-paving workers and rubbish collectors (Detained and Dehumanised: Report on Human Rights Abuses against Migrants in Libya, 13 September 2016, UN Support Mission in Libya Office of the UN High Commissioner for Human Rights, pages 1 and 18). Moreover, the Committee notes that in its resolution 2388 of 2017, the UN Security Council expressed concern that the situation in Libya is exacerbated by the smuggling of migrants and human trafficking into, through and from the Libyan territory, which could provide support to other organized crime and terrorist networks in Libya (S/RES/2388). The Committee must express its *deep concern* at the situation of migrant workers in Libya who are subjected to forced labour practices, including trafficking in persons. *While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take the necessary measures to prevent, suppress and combat trafficking in persons. The Committee requests the Government to take the necessary measures to ensure that migrant workers who are subjected to forced labour are fully protected from abusive practices. The Committee also recalls the importance of imposing appropriate criminal penalties on perpetrators so that recourse to trafficking or forced labour does not go unpunished. In this regard, the Committee requests the Government to take the necessary measures to ensure that perpetrators are prosecuted and that sufficiently effective and dissuasive criminal penalties are imposed in practice. Lastly, the Committee hopes that the Bill on combating trafficking in persons will be adopted soon and that the Government will provide a copy, once adopted.*

The Committee invites the Government to avail itself of technical assistance from the Office in order to facilitate the implementation of the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)

Article 1(a) of the Convention. Sanctions involving compulsory labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. For a number of years, the Committee has been referring to various provisions of the Publications Act No. 76 of 1972, under which persons expressing certain political views or views ideologically opposed to the established political, social or economic system may be punished with penalties of imprisonment (involving, under section 24(1) of the Penal Code, an obligation to perform labour). The Committee also noted the Government's indication that the Publications Act would be amended to take into account the Committee's comments. Moreover, following the establishment of the revolutionary Transitional Council, laws that were not in conformity with the principles of freedom and democracy were suspended, including the Publications Act. The Committee noted furthermore from the Report on the Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya that journalists had faced serious harassment and death threats; some had been subjected to arbitrary detention and abduction. Journalists also faced criminal prosecution for defamation and libel for writing on political matters (2016-A/HRC/31/47, paragraph 50).

The Committee notes that in its report the Government refers to certain sections of the Publications Bill, indicating that the Bill is still being studied and amended and will be transmitted to the legislative authority as soon as it is completed. The Committee draws the Government's attention to the fact that the purpose of the Convention is to ensure that no form of compulsory labour, including compulsory prison labour, is used in the circumstances specified in the

Convention. However, the Committee has observed that under various provisions of the abovementioned legislation, penalties of imprisonment involving compulsory labour may be imposed and are therefore not in line with the Convention.

Moreover, the Committee observes that according to the report of the United Nations High Commissioner for Human Rights of 2018, media professionals, activists and human rights defenders had their rights to freedom of expression and association restricted and were subjected to abductions, and arbitrary detention (A/HRC/37/46, paragraph 47). The Committee is therefore bound to express its **deep concern** at the current human rights situation in the country and recalls that restrictions on fundamental rights and liberties, including freedom of expression, may have a bearing on the application of the Convention, if such measures are enforced by sanctions involving compulsory labour. **While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take the necessary measures to ensure that no prison sentences involving compulsory labour are imposed on persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. The Committee trusts that the necessary measures will be taken to bring the Publications Act No. 76 of 1972 into conformity with the Convention, and requests the Government to provide information on the progress made in this regard.**

The Committee invites the Government to avail itself of technical assistance from the Office in order to facilitate the implementation of the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

Madagascar

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2007)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Article 1(b) of the Convention. Imposition of forced labour as a method of mobilizing and using labour for the purposes of economic development. In its previous comments, the Committee emphasized that national service, as established in Ordinance No. 78-002 of 16 February 1978 setting forth the general principles of national service, is incompatible with *Article 1(b)* of the Convention. Under the terms of section 2 of the Ordinance, all Malagasies are bound by the duty of national service defined as compulsory participation in national defence and in the economic and social development of the country. This compulsory service, which requires citizens to be engaged in defence or development work, involves citizens of both sexes for a maximum period of two years and may be carried out up to the age of 35. The Committee requested the Government to take the necessary measures to bring its legislation into conformity with the Convention.

The Committee notes the Government's indication that, after the processes of registration and review, young national service conscripts have to carry out their service by choosing between two options: (i) being excused for family reasons, in which case conscription is cancelled or deferred for one year, depending on the circumstances; or (ii) continuing vocational training through Action for Development Military Service (SMAD). The objective of the SMAD is therefore to facilitate the integration into active life of young Malagasies who volunteer for national service. The SMAD is established on a voluntary basis for young persons, and the duration of the training is set at 24 months, following which the volunteers are released from their statutory service obligations. These young persons choose between training for rural or urban trades.

The Committee once again recalls that programmes involving the compulsory participation of young persons in the context of military service or, instead of such service, in work for the development of their country, are incompatible with *Article 1(b)* of the Convention, which prohibits the use of compulsory national service as a method of mobilizing labour for the purposes of economic development. It observes that the Ordinance of 1978 provides that all Malagasies are covered by the duty of national service, defined as compulsory participation in national defence and in the economic and social development of the country. **The Committee firmly requests the Government to take the necessary measures to bring Ordinance No. 78-002 of 16 February 1978 into conformity with the Convention by guaranteeing that compulsory national service is not used as a method of mobilizing labour for the purposes of economic development. In the meantime, the Committee requests the Government to specify the relationship between the service obligations envisaged in the framework of compulsory national service, as set out in the Ordinance of 1978, and participation in SMAD. The Committee further requests the Government to indicate the practical modalities for the implementation of the SMAD and whether young persons who have chosen the SMAD can cancel the training on their own initiative. Finally, the Committee requests the Government to indicate the number of cancellations registered and their consequences.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Malawi

Forced Labour Convention, 1930 (No. 29) (ratification: 1999)

Articles 1(1) and 2(1) of the Convention. 1. Debt bondage. Over a number of years, the Committee has been raising the issue of forced labour in tobacco plantations pursuant to allegations from various workers' organizations, including the International Trade Union Confederation (ITUC). The Government stated that it had taken a position to abolish the tenancy system itself and consultations would soon start in this respect. The Government also indicated that the tenancy system is a gross violation of human rights as it was designed during an era when human rights were not respected. Finally, the Government stated that stakeholders and social partners were of the view of revising the Employment Act to include the tenancy farming, and that it would keep the Committee updated accordingly in this regard.

The Committee notes the Government's information in its report that, in order to abolish the tenancy system, consultations have been held. As a result, the Employment (Amendment) Bill has been drafted and submitted to relevant authorities for adoption. The Government indicates that, once adopted, a copy of the amended provisions will be submitted to the Committee. ***The Committee urges the Government to ensure that the Employment (Amendment) Bill will be adopted, without delay, in order to ensure the protection of tenant labourers against the debt mechanisms that may result in debt bondage. The Committee requests the Government to supply a copy of the Bill once adopted.***

2. *Trafficking in persons.* The Committee previously noted the adoption of the Trafficking in Persons Act in 2015. The Act covers in its definition forced labour, as well as the forced participation of a person in all forms of commercial sexual activity (Part I). A person who traffics another person commits an offence, and shall upon conviction, be liable to imprisonment for 14 years without the option of a fine (section 14). In aggravated circumstances the trafficker is liable to imprisonment for 21 years. The Committee also noted that the Act provides for the establishment of a National Coordination Committee against Trafficking in Persons. Moreover, the Act provides for several measures with regard to the protection of victims of trafficking, including the establishment of shelters, as well as an Anti-Trafficking Fund that shall provide care, assistance and support to victims of trafficking in persons.

The Committee notes the Government's information on the application of the Trafficking in Persons Act in practice. In 2017, 121 victims of trafficking were rescued and 42 suspects were arrested, while in 2016, 168 victims of trafficking were rescued and 30 suspects were arrested. The Government indicates that victim support units are established in various police stations across the country, which provide temporary shelter to victims of trafficking prior to and during court hearings. Upon the conclusion of the cases, victims are escorted back home by the police in collaboration with civil society organizations (CSOs). CSOs also provide assistance to victims, including accommodation, transport and various counselling services. The Government further indicates difficulties encountered regarding cross-border trafficking, particularly in relation to collaboration with other countries. ***The Committee requests the Government to continue its efforts to prevent and combat trafficking in persons, and to provide information on the application in practice of the Trafficking in Persons Act, 2015, including the number of investigations, prosecutions and convictions, as well as specific penalties imposed. The Committee also requests the Government to provide information on the activities of the National Coordination Committee against Trafficking in Persons, as well as on the measures taken to provide assistance to victims of trafficking.***

The Committee is raising other matters in a request addressed directly to the Government.

Malaysia

Forced Labour Convention, 1930 (No. 29) (ratification: 1957)

Articles 1(1), 2(1) and 25 of the Convention. 1. *Vulnerable situation of migrant workers with regard to the exaction of forced labour.* The Committee previously noted that the Department of Labour had taken various measures to protect migrant workers. For example, a mechanism for recruitment of foreign workers was established on a government to government (G to G) basis, in order to prevent forced labour practices. The Government stated that the G to G mechanism did not involve agents, third parties, middlemen, private employment agencies or other recruitment agents of both countries, but was conducted through the departments appointed by the two countries. Moreover, the Government introduced a standard bilingual contract of employment for all foreign workers as well as a Standard Operating Procedure which requires employers to pay wages to workers through their bank accounts and to obtain insurance coverage for foreign workers. The Government also indicated that the Special Enforcement Team (SET) conducted routine inspections and investigated complaints related to forced labour. However, the Committee noted that, according to the Report of the United Nations Special Rapporteur on trafficking in persons, especially women and children, of 2015, workers, including domestic workers, were recruited through fraud and deception about the type and conditions of employment by recruitment agents in Malaysia and in source countries. Most commonly they were exploited through breaches of contract, payment of excessive recruitment and immigration fees, reduction or non-payment of salary, excessive working hours, a lack of rest days and conditions akin to debt bondage and servitude. Practices of employers withholding passports were also reportedly common. This report further indicated that irregular migrants wanting to report abuse risked exposing themselves to the real danger of being charged for the offence of "irregular entry or stay" and would be detained and ultimately deported.

The Committee notes the Government's information in its report that, from 2016 to 2017, the labour inspectorate detected 132 cases related to forced labour and imposed fines of 347,000 Malaysian ringgit (MYR) in total (around US\$83,847). The prevalent indicators for forced labour in the identified cases were unpaid wages and physical abuse of workers. The Government states that, within the framework of the G to G mechanism, memoranda of understanding (MoUs) were signed and implemented with Bangladesh, Cambodia and Indonesia. In addition, the Government is moving towards the implementation of a General Guidelines on Recruitment, Employment and Repatriation of Foreign Domestic Workers instead of MoUs with source countries. The Government also establishes two G to G online systems for the application of employment of foreign workers: the Foreign Worker Management System (SPPA) for Bangladesh and the Integrated Foreign Workers Management System (ePPAx) for other countries, aimed at preventing the involvement of irresponsible third parties.

The Committee also notes from a 2017 report entitled *Risks and rewards: Outcomes of labour migration in South-East Asia – Key findings in Malaysia*, jointly produced by the ILO and the International Organization for Migration (IOM), that the average migrant in Malaysia works long hours (ten hours per day), nearly every day (6.2 days per week) for pay that is below the minimum wage (US\$286). Moreover, among the labour rights violations faced by migrant workers, coercive employment practices, such as retention of legal documents and excessive overtime, were the most prevalent types. The vulnerability of migrant workers to these abuses is intensified by the lack of fair, efficient and accessible means to resolve complaints (page 3). According to a report entitled *Protected or put in harm's way? Bans and restrictions on women's labour migration in ASEAN countries*, jointly published by the ILO and UN Women in 2017, due to the combination of continued high employer demand for domestic workers and a country of origin ban on recruiting them, Cambodian migrant domestic workers in Malaysia reported that recruiters did not allow them to return home and employers forced them to sign contract extensions under threat of not receiving their salary. The report indicates that the threat has significant repercussions for workers, as the lump sum of two years of wages is often paid at the end of a contract (pages 40–41).

While taking note of the measures taken by the Government to protect migrant workers, the Committee notes with **deep concern** the persistence of labour rights violations and the continued abusive working conditions of migrant workers that amount to forced labour, such as passport confiscation by employers, wage arrears, long working hours and forced contract extension. ***The Committee therefore once again urges the Government to strengthen the measures to ensure that migrant workers, including migrant domestic workers, are fully protected from abusive practices and conditions that amount to forced labour. It requests the Government to continue providing information on the measures taken in this regard, including information on the implementation of the Government to Government mechanisms for recruiting foreign workers as well as on other bilateral agreements signed with countries of origin. The Committee further requests the Government to continue to provide information on the activities undertaken by the Special Enforcement Team and other monitoring agencies to combat forced labour and the results achieved.***

2. *Trafficking in persons.* The Committee previously noted that the National Action Plan to Combat Trafficking in Persons for the period of 2016–20 (NAP 2016–20) was adopted. The Government concluded an MoU with Thailand in combating trafficking in persons which particularly focuses on protection of victims of trafficking, law enforcement cooperation and the repatriation process. Moreover, from 2012 to 2015, 746 persons were arrested in 550 cases related to trafficking in persons involving 1,138 victims. The Committee also noted from the Report of the Special Rapporteur on trafficking in persons that, various awareness-raising campaigns and training sessions were carried out in this regard. Moreover, a directive to investigate all cases of trafficking involving foreign nationals under the Anti-Trafficking Act of 2007, as amended in 2010 and renamed as the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act (Anti-Trafficking Act), was issued. A government policy allowing victims of labour trafficking to remain and work legally in Malaysia was also adopted in 2014. However, the Special Rapporteur indicated that the effective and swift investigation of offences under the Anti-Trafficking Act was hampered by a number of factors such as the limited coordination among enforcement agencies and the lack of skills to handle cases of trafficking as well as corruption of law enforcement officers. Moreover, the shelters run by the Ministry of Women, Family and Community Development were equivalent to detention centres where trafficked persons were treated as criminals in custody rather than victims.

The Committee notes the Government's information that the Anti-Trafficking Act was amended in 2015 with a more victim-centred approach, regarding permission to move freely, permission to work, provision of allowance and payment of compensation. Several implementing regulations were accordingly adopted in 2016 and 2017. Moreover, the monitoring of the Act is under the purview of the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO), consisting of governmental agencies and NGOs. The MAPO includes five committees: legislative committee, enforcement committee, protection and rehabilitation committee, special committee to monitor labour trafficking and media, and publicity committee. In December 2016, the High Level Committee of MAPO approved the establishment of a multi-agency task force in order to strengthen the cooperation between enforcement agencies in investigation and information sharing. The Committee also notes that 147 convictions of trafficking were handed down in 2017, compared to 100 in 2016. Additionally, a total of 18 individuals (employers) were convicted for unlawful passport retention under the Passport Act of 1966, which provides for penalties of imprisonment of not more than five years or a fine of MYR10,000 or both. Furthermore, in 2017, 675 victims were identified and received appropriate assistance, of which 134 were granted permission to move freely, 11 were granted permission to work and the rest were repatriated to their countries of origin. The Committee further notes that the NAP 2016–20 was developed with multi-agency commitment, focusing on measures at the regional and international levels.

Moreover, the Committee notes from the 2018 concluding observation of the UN Committee on the Elimination of Discrimination against Women (CEDAW) that Malaysia remains a destination country for trafficking of women and girls, including asylum-seeking and refugee women and girls, for purposes of sexual exploitation, begging and forced labour. The CEDAW is particularly concerned about the following: (i) the lack of a formal and uniform victim identification procedure, which may lead to the punishment of women and girls who have been trafficked for the violation of immigration laws; (ii) complicity among law enforcement officials, including those who reportedly accept bribes to allow undocumented border crossings, and impunity for those responsible, and those who were complicit in crimes resulting in abandoned camps for trafficked persons along the border between Malaysia and Thailand, which were discovered in

May 2015; and (iii) the inadequate assistance provided to victims of trafficking (CEDAW/C/MAS/CO/3-5, paragraph 25). *In light of the above information, the Committee requests the Government to continue its efforts to prevent, suppress and combat trafficking in persons, and to take the necessary measures to ensure that all persons who engage in trafficking and related offences, including complicit law enforcement officials, are subject to thorough investigation and robust prosecutions. In this regard, the Committee requests the Government to take measures to strengthen the capacities of the law enforcement bodies, to ensure that they are provided with appropriate training to improve the identification of the victims of trafficking and related support, as well as measures to ensure greater coordination among these bodies. It also requests the Government to continue providing information on the number of victims of trafficking who have been identified and who have benefited from adequate protection, and on the number of investigations, prosecutions and convictions in this regard. The Committee finally requests the Government to provide detailed information on the measures taken to implement the National Action Plan to Combat Trafficking in Persons (2016–20), as well as the results achieved.*

The Committee is raising other matters in a request addressed directly to the Government.

Morocco

Forced Labour Convention, 1930 (No. 29) (ratification: 1957)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. In its previous comments, the Committee noted the absence of provisions in the legislation explicitly criminalizing trafficking in persons, and accordingly it encouraged the Government to take the necessary measures for the adoption of comprehensive legislation to combat trafficking in persons.

The Committee notes with *interest* the adoption of Act No. 27-14 on combating trafficking in persons, promulgated by Dahir No. 1-16-104 of 18 July 2016. It notes that the Act amends the provisions of the Penal Code relating to trafficking in persons, and provides that the definition of exploitation includes sexual exploitation, in particular exploitation of the prostitution of others as well as exploitation through pornography, including by means of electronic communication. The Act also covers exploitation through forced labour, bondage, begging, slavery or practices similar to slavery (section 448.1 of the Penal Code). Moreover, it establishes a prison sentence of from five to ten years and a fine for the offence of trafficking (section 448.2).

The Committee notes the Government's indication in its report that, under the provisions of Act No. 27-14, the State is responsible for providing, within the means available, protection, medical care and psychological and social assistance for victims of trafficking. It must also provide them with temporary shelter and with necessary legal assistance, and facilitate their social integration or their voluntary return to their country of origin or residence (section 4). Moreover, with regard to judicial proceedings for cases of trafficking in persons, victims of trafficking are exempt from court fees for civil actions seeking damages for this offence. Victims and their dependants are also entitled to legal assistance, including for appeals. The scope of legal assistance extends, *ipso jure*, to all measures executing judicial decisions (section 5). The Committee also notes that the mandate of a national commission responsible for coordinating anti-trafficking measures includes the development of a national plan of action to combat trafficking in persons.

The Committee also notes that, in her report of 2017, the Special Rapporteur of the United Nations on trafficking in persons, especially women and children, recommended that Morocco develop a national plan of action related to the law on "human trafficking" and set out clear indicators to measure progress and the impact of police responses; design a mechanism for the collection of data on cases of trafficking; increase efforts to prosecute traffickers; and establish the necessary legal framework and procedures in order to ensure that victims and witnesses were protected (A/HRC/WG.6/27/MAR/2, paragraph 46). *The Committee requests the Government to provide information on the application in practice of Act No. 27-14 on combating trafficking in persons, including the number of investigations, prosecutions and convictions for trafficking in persons, for purposes of sexual and labour exploitation, as well as the specific sentences handed down to convicted persons. The Committee also requests the Government to indicate the measures taken or envisaged to adopt a national plan of action to combat trafficking, as envisaged by Act No. 27-14.*

Article 2(2)(d). Requisitioning of persons. For many years, the Committee has been drawing the Government's attention to the need to amend or repeal several legislative texts which authorize the requisitioning of persons and property to meet national needs (the Dahirs of 10 August 1915 and of 25 March 1918, reproduced in the Dahir of 13 September 1938 and reintroduced by Decree No. 2-63-436 of 6 November 1963). The Government indicated that the Dahirs of 25 March 1918 on civil requisitions and of 11 May 1931 on requisitions to maintain public security, tranquillity and health are only applicable in practice in cases of force majeure. The Committee urged the Government to take the necessary measures to ensure the repeal or amendment of the Dahir of 1938.

The Committee notes the Government's indication that even if the Dahir of 13 September 1938 on the general organization of the country during wartime, belongs to the category of legal texts dating back to the protectorate period, its application remains closely linked to the spirit of the Constitution of 2011, which established the principle of solidarity in bearing the burden arising out of cases of force majeure. The Committee nevertheless recalls that these texts go beyond what is authorized by *Article 2(2)(d)* of the Convention, under the terms of which powers of requisitioning, and therefore to impose labour, should be limited to any circumstance that would endanger the existence or the well-being of the whole

or part of the population; however, the provisions of the Dahir of 1938 are drafted in such broad terms that they could be applied to a wide range of circumstances, other than force majeure. ***The Committee therefore once again urges the Government to take the necessary measures to ensure the repeal or amendment of the Dahir of 1938 in order to avoid any legal ambiguity and to ensure the conformity of national laws and regulations with the Convention and with the practice indicated.***

The Committee is raising other matters in a request addressed directly to the Government.

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1966)

Article 1(a) of the Convention. Imposition of prison sentences involving the obligation to work as a punishment for expressing political views. Since 2004, the Committee has been drawing the Government's attention to certain provisions of the Press Code (sections 20, 28, 29, 30, 40, 41, 42, 52 and 53 of Dahir No. 1-58-378 of 15 November 1958, as amended by Act No. 77-00 of 3 October 2002) penalizing several press-related offences by sentences of imprisonment which, under the terms of sections 24, 28 and 29 of the Penal Code and section 35 of Act No. 23-98 on the organization and operation of prisons, involve the obligation to work in prison. The Committee also noted the Government's indication that the revision of the Press Code was still under way, and that provisions were envisaged to amend the sections that were not in line with the Convention. The Committee requested the Government to take the necessary measures without delay to bring its legislation into conformity with the Convention.

The Committee notes the Government's indication in its report that Act No. 89-11 on the conditions of service of professional journalists was promulgated by Dahir No. 1-6-51 of 27 April 2010. The Act defines the occupation of journalism, the various categories of journalists, the requirements for the issuance of an occupational card, the employment relationship within the newspaper undertaking, as well as the various types of termination of employment. The Government also indicates that a National Press Council (CNP) has been established (Act No. 90-13, Dahir No. 1-16-24 of 10 March 2016). The CNP is responsible, inter alia, for guaranteeing and ensuring the right of citizens to pluralist information and promoting freedom of the press and publication. The Committee notes with *satisfaction* that, under sections 71, 83 and 84, the offences of defamation and of attacking religion or the monarchical regime in periodicals are no longer penalized by prison sentences involving an obligation to work.

Article 1(d). Imposition of prison sentences involving an obligation to work as punishment for having participated in strikes. For a number of years, the Committee has been drawing the Government's attention to section 288 of the Penal Code, under the terms of which any person who, through the use of threats or deception, causes or maintains, or endeavours to cause or maintain a concerted stoppage of work with the aim of forcing an increase or decrease in wages or jeopardizing the free exercise of industry or work, shall be liable to a sentence of imprisonment of from one month to two years. The Committee previously noted the Government's indication that a Bill regulating the right to strike is in the process of being adopted and, moreover, that the national courts have not had recourse to the provisions of section 288 of the Penal Code.

The Committee notes the Government's indication that an organic Bill on the exercise of the right to strike was submitted to Parliament during the legislative period 2013–16. The Bill, which is currently the subject of ongoing consultations with the economic and social partners with a view to its joint approval by all the stakeholders, is an integral part of the government legislative plan for the period 2017–21. It should also be noted that the issue of amending section 288 of the Penal Code will still be examined as part of the comprehensive reform of the Penal Code under way. ***The Committee once again hopes that, in the framework of this process, the new legislative texts will be in conformity with the Convention, and that it will not be possible to impose sentences of imprisonment involving the obligation to work on workers for peaceful participation in strikes. The Committee requests the Government to provide copies of the new legislative texts when they have been adopted.***

Mozambique

Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1977)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments initially made in 2016.

Article 1(a) and (b) of the Convention. Compulsory labour for persons identified as "unproductive" or "anti-social". For many years, the Committee has been drawing the Government's attention to the need to amend the Ministerial Directive of 15 June 1985 on the evacuation of towns, under which persons identified as "unproductive" or "anti-social" may be arrested and sent to re-education centres or assigned to productive sectors. The Government indicated previously that re-education centres no longer existed and that the 1985 Directive had become obsolete and would be repealed within the framework of the revision of the Penal Code. The Committee observes with *regret* that the new Penal Code adopted in December 2014 (Act No. 35/2014) does not repeal this Directive. The Committee recalls that, under the terms of *Article 1(a) and (b)* of the Convention, States undertake not to make use of any form of forced or compulsory labour as a means of political coercion or education or as a method of mobilizing and using labour for purposes of economic development. ***The Committee urges the Government to take the necessary measures to formally repeal the Ministerial Directive of 15 June 1985 on the evacuation of towns so as to bring the legislation into conformity with the Convention and with the practice indicated, and thereby ensure legal certainty.***

Article 1(b) and (c). Imposition of sentences of imprisonment involving an obligation to work for the purposes of economic development and as a means of labour discipline. For many years, the Committee has been emphasizing the need to

amend or repeal certain provisions of Act No. 5/82 of 9 June 1982 concerning the defence of the economy. This Act provides for the punishment of types of conduct which, directly or indirectly, jeopardize economic development, prevent the implementation of the national plan and are detrimental to the material or spiritual well-being of the population. Sections 10, 12, 13 and 14 of the Act prescribe prison sentences, which may involve compulsory labour, for repeated cases of failure to fulfil the economic obligations set forth in instructions, directives, procedures, etc., governing the preparation or implementation of the national State plan. Section 7 of the Act penalizes unintentional conduct (such as negligence, the lack of a sense of responsibility, etc.) resulting in the infringement of managerial or disciplinary standards.

The Committee noted previously that in 2007 the Constitutional Council declared a law adopted by the Assembly of the Republic repealing Act No. 5/82 (as amended by Act No. 9/87) to be unconstitutional, considering that the blanket repeal of these Acts would have the effect of no longer criminalizing or punishing certain conducts that jeopardize economic development that are not punishable by other legislative texts, thereby leaving a legal vacuum. The Committee notes that, although the 2014 Penal Code repeals certain provisions of these two Acts, the sections covered by its previous comments, namely sections 7, 10, 12, 13 and 14, remain in force. ***The Committee regrets that the Government did not take the opportunity of the adoption of the new Penal Code to bring its legislation into conformity with the Convention and it trusts that the Government will not fail to take the necessary measures to repeal the provisions of Act No. 5/82 concerning the defence of the economy, as amended by Act No. 9/87, which are contrary to the Convention.***

Article 1(d). Penalties imposed for participation in strikes. In previous comments, the Committee noted that, under section 268(3) of the Labour Act (Act No. 23/2007), striking workers who are in violation of the provisions of section 202(1) and section 209(1) (obligation to ensure a minimum service) face disciplinary penalties and may incur criminal liability, in accordance with the general legislation. The Committee notes that the Government has not provided any information on the nature of the penalties which may be faced by striking workers in cases where their criminal liability is incurred, nor on the provisions of the general legislation that are applicable in this respect. The Committee recalls in this regard that, in accordance with *Article 1(d)* of the Convention, persons who participate peacefully in a strike cannot be liable to imprisonment involving compulsory labour. ***The Committee therefore once again requests the Government to indicate the nature of the penalties that may be imposed on striking workers where their criminal liability is incurred pursuant to the provisions of section 268(3) of the Labour Act. Referring also to its comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee requests the Government to take the necessary measures to ensure that no prison sentences involving compulsory labour can be imposed on workers who participate peacefully in a strike.***

The Committee is raising other matters in a request addressed directly to the Government.

Myanmar

Forced Labour Convention, 1930 (No. 29) (ratification: 1955)

Articles 1(1), 2(1) and 25 of the Convention. Elimination of all forms of forced labour 1. *Engagement of the ILO regarding the elimination of forced labour. (a) Historical background.* In March 1997, a Commission of Inquiry was established under article 26 of the ILO Constitution to address the forced labour situation in Myanmar. As reported to the ILO Governing Body, forced labour had taken various forms in the country over the years, including forced labour in conflict zones, as well as for public and private undertakings. In its recommendations, the Commission of Inquiry urged the Government to take the necessary steps to ensure that: (i) the relevant legislative texts, in particular the Village Act and the Towns Act, be brought into line with the Convention; (ii) in practice, no more forced or compulsory labour be imposed by the authorities, in particular the military; and (iii) the penalties which may be imposed under section 374 of the Penal Code for the exaction of forced or compulsory labour be strictly enforced.

Since then, the issue has been the focus of cooperation between the Government and the ILO for more than a decade. In 2002, an Understanding was agreed between the Government and the ILO, which permitted the appointment of an ILO Liaison Officer. Later in 2007, the Supplementary Understanding (SU) was signed to, in particular, set out a complaints mechanism with the objective “to formally offer the possibility to victims of forced labour to channel their complaints through the services of the Liaison Officer to the competent authorities with a view to seeking remedies available under the relevant legislation and in accordance with the Convention”. In addition, in 2012, the ILO concluded a Memorandum of Understanding (MoU) on a Joint Strategy for the Elimination of Forced Labour by 2015, which provided a basis for seven inter-related action plans. The ILO also participated in the Country Task Force on Monitoring and Reporting on underage recruitment issues.

(b) *Recent developments.* On 22 January 2018, the Government and the ILO signed another MoU, which agreed on a new Action Plan for the elimination of all forms of forced labour for the year of 2018. The Action Plan focuses on four priorities, including: (i) continued operation of the complaints mechanism; (ii) training and awareness raising on forced labour including for Government officials; (iii) capacity building to end forced labour at regional and state levels; and (iv) mobilization of tripartite partners for the prevention of forced labour in the private sector. In particular, the extension of the SU to 31 December 2018 will allow the complaints mechanism and further cooperation on forced labour to continue during the transition to the Decent Work Country Programme (DWCP), which was endorsed by the National Tripartite Dialogue Forum on 16 January 2018. During its most recent discussion on this case in March 2018, the Governing Body concluded that the extension of the SU and agreement on an updated further phase of the Action Plan for the Elimination of Forced Labour, together with the tripartite endorsement of the first DWCP for Myanmar, are very welcome and represent significant progress in pursuing ILO constituent priorities (GB.332/INS/8, paragraph 17). In September 2018, the first DWCP for Myanmar was agreed by the Union Government, the employers’ and workers’ organizations and the ILO, which is considered by all parties as a major step forward for the country, signalling a process

towards normalizing its engagement with the ILO and the International Community after decades of authoritarian rule and related problems of forced labour.

2. *Application of the Convention in law and in practice.* In its previous comments, the Committee noted with satisfaction the adoption of the Ward or Village Tract Administration Act of 2012, which repealed the Village Act and the Towns Act of 1907 (section 37) and makes the use of forced labour by any person a criminal offence punishable with imprisonment and fines (section 27A). However, the Committee noted that no action had been taken to amend article 359 of the Constitution (Chapter VIII – Citizenship, fundamental rights and duties of citizens), which exempts from the prohibition of forced labour “duties assigned by the Union in accordance with the law in the interest of the public” and could be interpreted in such a way as to allow a generalized exaction of forced labour from the population. The Government stated that the 2008 Constitution would be amended as required. Regarding the practical application of the Convention, the Committee welcomed the various measures undertaken by the Government in collaboration with the ILO, aimed at the eradication of forced labour in practice. These measures included the undertaking of an extensive range of awareness-raising activities across the country, support for the continued use of the SU complaints mechanism to enable victims of forced labour to seek redress, as well as holding to account a substantial number of military personnel for their continued use of forced labour. While taking due note of the progress made towards the elimination of all forms of forced labour, the Committee observed that the use of forced labour continued in Myanmar.

The Committee notes the Government’s information in its report that, from March 2007 to June 2018, the complaints mechanism received a total number of 754 cases, of which 739 are related to underage recruitment, 13 to forced labour and 2 to other issues. 377 military personnel, including 64 officers and 313 soldiers of other ranks, were punished by military disciplinary action for underage recruitment and forced labour. Moreover, within the framework of the Action Plan for Prevention of Underage Recruitment, 448 military personnel were punished by military disciplinary action. Only one person was punished under section 374 of the Penal Code. The Committee also notes the Government indication that implementing directives for the Ward or Village Tract Administration Law of 2012 were issued for ward and village tract administrators and general administrative departments at all levels. Moreover, 18,191 awareness-raising workshops on forced labour were held, with 1,280, 307 participants from related townships of all states and regions. Training was also provided to military personnel for the prevention of underage recruitment. The Government further indicates that a special budget was allocated to the ward and village tract administration offices to prevent the use of forced or unpaid labour. Furthermore, measures were undertaken to ensure the enforcement of labour laws, particularly in the private sector. The labour law reform is also ongoing with the technical assistance provided by the ILO. However, the Committee notes that the Government’s report does not contain any information on the progress made regarding the amendment to article 359 of Chapter VIII of the Constitution.

The Committee notes from the DWCP Diagnosis Report (published in September 2018) that the ILO has been working with both the Government and the Ethnic Armed Groups to secure commitment to ending forced labour, resulting in at least two non-State armed groups committing to eliminate the practice. Developments within the peace process are also likely to garner positive outcomes in terms of the elimination of forced labour, since the National Ceasefire Agreement of 2015 includes commitments to prevent forced labour of civilians and recruitment of children. The issue of forced labour was also highlighted at the first Union Peace Conference in August 2016. Consequently, there has been a significant decrease in the numbers of reported cases of forced recruitment for military purposes by both the security forces and armed groups. Similarly, forced recruitment for public works appears to be on the decline, as a result of increased awareness on the part of local authorities. However, the training of government personnel on the effective application of the law and public awareness campaigns needs to be further intensified. The Government has also indicated a desire to adopt a more decentralized approach with greater responsibility being placed with regional and state governments in the implementation of action plans and ensuring compliance with the law for the elimination of forced labour. Both the labour inspectorate and social partners also need to be capacitated to address the issue of forced labour in the private sector.

However, the Committee notes from the Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar of 17 September 2018 (A/HRC/39/CRP.2) that the use of forced labour by the *Tatmadaw* (the armed forces of Myanmar) persists, particularly in Kachin and Shan States, as well as among the ethnic Rakhine and Rohingya. In many instances, the *Tatmadaw* arrived in a village and took villagers directly from their homes or from the areas surrounding their village while they were fishing, farming, running errands or travelling. In some cases, this was done in an organized way, such as house by house, on the basis of a quota for each family, through a list, or with the cooperation of village leaders. The duration of forced labour varied from a few days to months. Persons subjected to force labour were required to perform a variety of tasks. Many of them were required to act as porters, carrying heavy packages including food, clothes and in some cases weapons. Other common types of work included digging trenches, cleaning, cooking, collecting firewood, cutting trees, and constructing roads or buildings in military compounds. Victims were also sometimes required to fight or participate in hostilities. Often, victims were given insufficient food of poor quality or were not able to eat at all. They did not have access to water and were kept in inadequate accommodation, including in the open air without bedding and without adequate sanitary facilities. Victims were subjected to violence if they resisted, worked slowly or rested. Particularly, female victims also faced sexual violence (paragraphs 258–273, 412–424 and 614–615).

The Committee takes note of the measures undertaken and the progress made by the Government regarding the elimination of forced labour. However, the Committee must note with **deep concern** the persistence of forced labour imposed by the *Tatmadaw* in Kachin and Shan States, as well as among the ethnic Rakhine and Rohingya. Moreover, the Committee observes that almost all the military personnel found involved in forced labour received only disciplinary sanctions, except for one person who was punished under section 374 of the Penal Code. The Committee reminds the Government that, by virtue of *Article 25* of the Convention, the exaction of forced or compulsory labour shall be punishable as a *penal* offence, and the penalties imposed by law shall be really adequate and are strictly enforced. ***The Committee therefore urges the Government to strengthen its efforts to ensure the elimination of forced labour in all its forms, in both law and practice, particularly the forced labour imposed by the Tatmadaw. It requests the Government to take the necessary measures to ensure the strict application of the national legislation, particularly the provisions of the Ward or Village Tract Amendment Act of 2012 and the Penal Code, so that sufficiently dissuasive penalties of imprisonment are imposed and enforced against perpetrators in all cases. In this regard, the Committee requests the Government to continue providing information on the application in practice of the abovementioned legislation to ensure accountability, including the statistical data on cases of forced labour detected and the specific penalties imposed on perpetrators. It also requests the Government to continue providing detailed information on the measures taken to ensure that, in practice, forced labour is no longer imposed by the military or civilian authorities, as well as the private sector, such as awareness-raising and capacity building activities for local administrators, military personnel, other stakeholders and the public. Finally, the Committee requests the Government to provide information on any progress made regarding the amendment to article 359 of the Constitution. The Committee reiterates the firm hope that all the necessary measures will be taken without delay to achieve full compliance with the Convention so as to ensure that all use of forced or compulsory labour in Myanmar is completely eliminated.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to supply full particulars to the Conference at its 108th Session and to reply in full to the present comments in 2019.]

Nepal

Forced Labour Convention, 1930 (No. 29) (ratification: 2002)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018.

Articles 1(1) and 2(1) of the Convention. Bonded labour. In its previous comments, the Committee noted the Government's information that the Ministry of Land Reform and Management was drafting a bill entitled Bonded Labour (Prohibition, Prevention and Rehabilitation) Act, which would abolish all types of bonded labour systems and other abusive customs and practices, and which would repeal the Kamaiya Prohibition Act of 2002. It also noted the various rehabilitation measures implemented for freed bonded labourers through the Freed *Kamaiya* Rehabilitation and Livelihood Development Programme; the provision of scholarships and hostel facilities for freed *Kamlari* girls (offering girls for domestic work to the families of landlords) by the Department of Education; and the Freed *Haliya* Rehabilitation Action Plan for freed *Haliyas* (agricultural bonded labourers). The Committee requested the Government to strengthen its efforts to ensure the rehabilitation and social reintegration of all freed bonded labourers.

The Committee notes the ITUC's observation that although the Government has engaged in a rehabilitation programme for freed bonded labourers, there are still a large number of *Haliya* families, predominantly found in the geographically isolated far-western region, who do not benefit from the programme and are at risk of returning to bondage for survival means. In 2016, there were an estimated 16,953 *Haliya* families in bonded labour. However, it is estimated that this number is more likely to be around 20,000 to 22,000. The ITUC further states that the financial assistance provided to the freed bonded labourers is inadequate and that the rehabilitation packages should include work-skills training and education which would ensure that the freed bonded labourers can achieve economic empowerment and access to decent work opportunities.

The Committee notes the Government's information in its report that, of the 27,570 freed bonded labourers, 26,922 were provided grants to purchase land and build houses. It also notes the Government's information that within the framework of the Freed *Haliya* Rehabilitation Action Plan, from 2017 to 2018, 37 families were provided support to purchase land; 876 families to purchase wood; and 1,005 families for building houses. Moreover, five skill development trainings were provided to 80 *Kamaiyas* and *Haliyas*. In addition, 15 skill development trainings were provided to freed bonded labourers which benefited 225 of them.

The Committee also notes from the technical progress report (TPR) of June 2018 of the ILO project entitled "A Bridge to Global Action on Forced Labour 2015–19" (the Bridge project), that various skills and employability training sessions for freed *Haliyas* (600 participants, including 364 women) have been initiated. In this regard, eight trainings have been completed, six trainings are ongoing and a remaining ten trainings are expected to begin soon. Moreover, a list of 22 freed *Haliya* women are being referred by the Bridge Project to the ILO Fair Recruitment Project and are currently on a waiting list for work in the garment sector in Jordan. The Committee also notes from the TPR that media advocacy and awareness-raising tools, such as a documentary film, a radio and TV public service announcement on the ILO Protocol of

2014 to the Forced Labour Convention, have been prepared and will be disseminated soon. Moreover, a final draft of the Bonded Labour Act has been prepared after consultations with the members of the Forced Labour Elimination Advocacy Group, the Ministry of Labour and Employment and the Ministry of Land Reform and Management. ***The Committee strongly encourages the Government to continue its efforts to ensure that all freed bonded labourers are rehabilitated and socially reintegrated, including through the provision of adequate financial assistance, skills development and other income-generating activities. It requests the Government to take the necessary measures to ensure that the rehabilitation programme also reaches the Haliya families in the far-western region, and to continue to provide information on the measures taken in this regard and on the results achieved. Lastly, the Committee expresses the firm hope that the draft Bonded Labour (Prohibition, Prevention and Rehabilitation) Act, will be adopted soon and requests the Government to provide a copy, once adopted.***

Articles 1(1), 2(1) and 25. 1. *Trafficking in persons.* In its previous comments, the Committee noted the various measures taken by the Government to combat trafficking in persons; such as the adoption of the National Plan of Action against Trafficking in Persons 2011–21; the establishment of the National Committee on Controlling Human Trafficking; the establishment of the Women and Children Service Directorate within the Nepal police and the Women and Children Service Centres in 39 districts; the establishment of surveillance centres on national highways and checkpoints along the international border; and the operation of a fast-track justice system which gives priority to cases of trafficking in persons. However, it noted from the 2016 report of the National Human Rights Commission concerning trafficking in persons, that about 8,000 to 8,500 persons were trafficked between 2014 and 2015. In this regard, the Committee noted that the United Nations Human Rights Committee and the Committee on Economic, Social and Cultural Rights, in their concluding observations of 15 April 2014 and 12 December 2014, respectively, expressed their concern at the lack of effective implementation of the Human Trafficking and Transportation (Control) Act of 2007, and the persistence of trafficking for purposes of sexual exploitation, forced labour, bonded labour, and domestic servitude. The Committee therefore urged the Government to strengthen its efforts to prevent, suppress and combat trafficking in persons and to ensure the effective implementation of the Human Trafficking and Transportation (Control) Act of 2007 in practice.

The Committee notes the following measures taken by the Government, as provided in its report:

- a coordination mechanism between the various ministries and the Office of the Attorney-General has been established for the effective implementation of the Human Trafficking and Transportation (Control) Act of 2007;
- in order to reduce the risk of adolescents from being trafficked, a topic on human trafficking has been incorporated into the school curriculum from grades 6 to 10;
- various awareness-raising programmes on issues related to trafficking of persons were initiated, including through the media, newspapers and national television;
- a Safe Migration Information Centre was established in 20 districts; and
- the rehabilitation centres in different districts were outsourced to various NGOs for its better functioning.

The Committee also notes the information provided by the Government in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), on the training programmes provided to various stakeholders working against human trafficking, including the Nepal police and district courts as well as the interaction programmes conducted by the National and District Committees on Controlling Human Trafficking. The Committee further notes from the Government's report that from 2016-17, the Nepal police registered 227 cases of trafficking of persons involving 311 victims, of which 308 victims were female. In addition, according to the report of the Office of the Attorney-General, during 2016 to 2017, 249 cases (including new and pending cases) related to trafficking of persons were dealt by the courts and convictions were made in 96 cases. The Committee notes, however, from the Trafficking in Persons National Report of the National Human Rights Commission of June 2018 that the number of trafficking cases registered by the Nepal police is relatively low compared to the factual number of trafficking victims. ***The Committee therefore urges the Government to strengthen its efforts to prevent, suppress and combat trafficking in persons, and to take the necessary measures to ensure that all persons who engage in trafficking and related offences are subject to thorough investigations and prosecutions. In this regard, it requests the Government to continue taking measures to strengthen the capacities of the law enforcement bodies, to ensure that they are provided with appropriate training to improve identification of the victims of trafficking as well as to ensure greater coordination among these bodies. The Committee requests the Government to continue to provide information on the concrete measures taken in this regard and the results achieved. Lastly, it requests the Government to ensure the effective implementation of the Human Trafficking and Transportation (Control) Act of 2007 and to provide information on its application in practice, with regard to the number of investigations, prosecutions, convictions and penalties applied.***

2. *Vulnerable situation of migrant workers and imposition of forced labour.* In its previous comments, the Committee noted the various measures taken by the Government to protect migrant workers. However, the Committee noted from the 2016 report of the National Human Rights Commission (NHRC) of Thailand that there was widespread exploitation and abuse by recruiting agencies and brokers in the process of foreign employment, such as: deception – with regard to salary, nature of work, and sometimes even country of destination; and fraud – such as issuing fake medical reports and certificates of orientation training without actually undergoing such training and other irregularities and that hundreds of men and women were victims of such fraudulent activities and a large number of them ended up in forced

labour situations or were trafficked for labour exploitation. This report further highlighted the forms of human rights violations in the context of foreign labour migration, including: passport confiscation by the employers/sponsors; retention of identity and travel documents; withholding of wages; threat of denunciation to the authorities; excessive overtime work; physical and sexual abuse; and isolation. The Committee urged the Government to strengthen its efforts to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour, including through the effective implementation of the Foreign Employment Act to address the exploitative practices of private recruitment agencies.

The Committee notes the ITUC's observation that the Government's policy of banning women from migrating for domestic work has increased their vulnerability to abuse and exploitation, alongside insufficient pre-departure preparedness, inadequate regulation concerning recruitment agencies and a lack of diplomatic representation in Lebanon, which is the highest destination country for migrant domestic workers. The ITUC states that an estimated 13,000 domestic workers from Nepal are employed in Lebanon.

The Committee notes the Government's information on the following measures taken to protect migrant workers:

- the Foreign Employment Act 2007, and Rules, 2008 are being amended and new provisions for the attestation of labour agreements through the Embassy of Nepal at the country of destination have been incorporated;
- returnee migrants have been mobilized for awareness campaigns;
- a directive to provide legal assistance to migrant workers has been approved by the Cabinet;
- the services by the various institutional mechanisms related to foreign employment have been decentralized;
- regular monitoring and inspection of private recruitment agencies are being conducted to identify any exploitative practices;
- an online Foreign Employment Information Management System, which provides detailed information on registered private recruitment agencies and recruitment procedures as well as a database of other relevant government agencies and their role in foreign employment, has been installed.

The Committee also notes that within the framework of the ILO–UK partnership programme entitled “Work in Freedom Programme on Fair Recruitment and Decent Work for Women Migrant Workers in South Asia and the Middle East”: (i) 18,833 migrant workers (14,317 women) and workers at risk were empowered with better awareness, information and skills; (ii) around 25,000 people including 23,000 women benefited from the pre-departure orientation training on women's empowerment, recognition of work, referral services and the foreign employment processes; and (iii) 450 domestic workers were unionized through the All Nepal Federation of Trade Unions.

The Committee further notes from the report of 30 April 2018 of the Special Rapporteur on the Human Rights of Migrants of the United Nations that, although Nepal has made significant progress in ensuring protection of the rights of its citizens who migrate for foreign employment, important gaps in protection continue to exist in law and challenges remain in enforcement, implementation and monitoring. It notes from this report that the Government of Nepal has: (i) introduced a mandatory two-day pre-departure orientation course for migrant workers; (ii) introduced the 2012 technical and vocational education and training policy which recognizes the need for skills development training programmes; (iii) established a welfare fund for the rescue and repatriation of migrant workers; (iv) extended the services of the Migrant Resource Centres to 20 districts; (v) developed a project to link the returned migrants to microfinance institutions; and (vi) endorsed guidelines for migrant domestic workers which require women migrants to have reached the age of 24 for foreign employment and the provision for the Government to sign bilateral agreements and memoranda of understanding with destination countries to which women migrants leave for domestic work. However, the Committee notes that according to the report of the Special Rapporteur:

- there are several cases of violations of the Foreign Employment Act which have rendered migrant workers more vulnerable to exploitation in the destination country, such as terms of employment, remuneration, employing company or the type of work agreed upon in Nepal were changed upon arrival in the destination country; contracts were substituted; contracts not translated to the language migrant workers understood; copies of contracts not given to the workers; workers are sent on forged documents; and workers faced non-payment or of deductions in wages;
- migrant workers are charged with high recruitment costs which renders them more vulnerable to trafficking and forced labour;
- police involvement in investigating cases of deceptive recruitment and forced labour are limited.

The Committee finally notes from the 2018 report of the National Human Rights Commission concerning Trafficking in Persons that the flow of migrant workers was 759,230 in 2016–17 and the total number of migrant workers who obtained labour permits from 2012–13 to 2016–17 reached 2.23 million with a high concentration of migrant workers mainly in Qatar, Saudi Arabia and the United Arab Emirates. This report further indicates that with regard to the employment in these countries, the Parliamentary Committee identified that there is: a high prevalence of organized human smuggling and trafficking; widespread deception and fraud in the business of foreign recruitment; a high prevalence of exploitation due to a dual labour agreement system; and the prevalence of *kafala* (sponsorship) system. While taking due note of the measures taken by the Government to protect migrant workers, the Committee notes with

concern the continued abusive practices and conditions of migrant workers that may amount to forced labour. The Committee therefore strongly encourages the Government to strengthen its efforts to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour, including through the effective implementation of the Foreign Employment Act to address the exploitative practices in the business of foreign recruitment, including the private recruitment agencies. The Committee requests the Government to continue to provide information on measures taken in this regard, including information on international cooperation efforts undertaken to support migrant workers in destination countries, and measures specifically tailored to the difficult circumstances faced by such workers to prevent and respond to cases of abuse and to grant them access to justice, as well as to other complaints and compensation mechanisms.

The Committee is raising other matters in a request addressed directly to the Government.

Nigeria

Forced Labour Convention, 1930 (No. 29) (ratification: 1960)

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Legal framework and penalties. The Committee previously noted the enactment of the Trafficking in Persons (Prohibition) Enforcement and Administration Act in 2015 (hereafter “Anti-Trafficking Act of 2015”), which provides for a detailed list of offences, such as trafficking in persons, forced labour, trafficking in slaves or slave dealing, as well as the penalties that are applied for each offence (sections 15, 16, 22, 24 and 25). The Committee also noted that the Anti-Trafficking Act provides for the establishment of the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) under which special departments had been set up, such as the Investigation and Monitoring and the Legal and Prosecution Departments (section 11). Since its inception, the NAPTIP had arrested a number of suspected human traffickers, with convictions of 249 traffickers by the court.

The Committee notes the Government’s information in its report that the NAPTIP continues its collaboration with the civil society and takes actions to ensure the prompt response to distress calls. Moreover, an Anti-Trafficking Unit has been established in the Police Force. The Committee also notes that about 300 convictions of trafficking were handed down, while about 100 cases are still pending in court. It further notes the detailed information provided by the Government on the convictions of trafficking-related offences under the Anti-Trafficking Act of 2015. Accordingly, among convictions handed down in 2017 and 2018, in eight cases offenders received penalties of imprisonment with an option of fines. However, the Committee observes that related provisions of the Anti-Trafficking Act of 2015 provide for penalties of imprisonment without an option of fines or together with fines. Similarly, in its concluding observations of 2017, the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) expressed its concern that, although the Anti-Trafficking Act of 2015 removed judges’ ability to impose a fine in lieu of a prison sentence for trafficking offences, the courts continue to penalize traffickers with only fines in certain cases (CMW/C/NGA/CO/1, paragraph 55). Referring to paragraph 319 of the 2012 General Survey on the fundamental Conventions, the Committee recalls that, when the sanction consists only of a fine or a very short prison sentence, it does not constitute an effective sanction in light of the seriousness of the violation and the fact that the sanctions need to be dissuasive. *The Committee therefore requests the Government to take the necessary measures to ensure that the Anti-Trafficking Act of 2015 is applied so that sufficiently effective and dissuasive penalties of imprisonment are imposed and enforced in all cases. The Committee also requests the Government to continue providing information on the application in practice of the Anti-Trafficking Act of 2015, indicating the activities of the NAPTIP, the statistical data on cases of trafficking for labour or sexual exploitation, as well as information on the outcome of the legal proceedings that have been instituted and the penalties imposed on perpetrators.*

2. Protection and assistance for victims of trafficking in persons. The Committee previously noted the Government’s reference to different measures taken with regard to the protection and assistance for victims of trafficking, such as: (i) the development and adoption of an operational guideline on a national referral mechanism; (ii) the training of officers of the counselling and rehabilitation department in order to professionalize social work in the agency; and (iii) the remodelling and improvement of the NAPTIP Transit Shelters to provide quality service to the victims. A total of 9,738 victims were rescued and rehabilitated during the year. Moreover, the Committee noted the provisions dealing with victims’ rehabilitation facilities, legal and medical assistance, and training facilities under the Anti-Trafficking Act of 2015 (sections 61–68). It noted in particular that under section 67, a Trust Fund for victims of trafficking shall be established to pay compensation, restitution and damages to trafficked persons.

The Committee notes the Government’s information that that Trust Fund has been established. Various services, such as vocational training, counselling and other reintegration activities, are provided to victims. According to the Government’s 2018 report under the Worst Forms of Child Labour Convention, 1999 (No. 182), the total number of trafficking victims who benefited from the rehabilitation programme of the Government from 2015–18 (June) amounts to 2,731. The Committee also notes from the Government’s replies of 2017 to the list of issues related to its periodic reports to the UN Committee on the Elimination of Discrimination against Women (CEDAW) that the eight shelters operated by the NAPTIP provide temporary accommodation to victims for a period of six weeks and that the NAPTIP partners with other privately owned shelters for victims who need a longer stay in order to ensure witness protection,

counselling and rehabilitation (CEDAW/C/NGA/Q/7-8/Add.1, paragraphs 53 and 60). The Committee further notes from the 2017 concluding observations of the CMW that there is a lack of information on mechanisms to identify victims, provide support and facilitate their rehabilitation and on the availability of such mechanisms throughout the country (paragraph 55). *The Committee therefore requests the Government to strengthen its efforts to ensure that victims of trafficking for purposes of both sexual and labour exploitation are identified and provided with adequate protection and assistance. The Committee also requests the Government to continue providing information on the number of victims who have been identified, who have benefited from protection and assistance services and who have received compensation from the Trust Fund.*

The Committee is raising other matters in a request addressed directly to the Government.

Sierra Leone

Forced Labour Convention, 1930 (No. 29) (ratification: 1961)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Articles 1(1) and 2(1) of the Convention. Compulsory agricultural work. For many years, the Committee has been referring to section 8(h) of the Chiefdom Councils Act (Cap. 61), under which compulsory cultivation may be imposed on "natives". On numerous occasions, the Government indicated that this legislation would be amended. The Government also indicated that section 8(h) of the Act was not applied in practice and, as it was not in conformity with article 9 of the Constitution, it was unenforceable.

The Committee notes the Government's statement that, at the time of ratification, chiefs with administrative authority requested forced or communal labour from their communities, but that measures have been taken to address these occurrences, including through the establishment of the Human Rights Commission of Sierra Leone. Nonetheless, the Government states that, despite the prohibition on forced or compulsory labour, minor violations do occur. In this regard, the Government indicates that a report was filed with the Human Rights Commission relating to the undertaking of communal work by a village. *Noting that the Government had previously indicated its intention to amend this Act, the Committee urges the Government to take the necessary measures to repeal section 8(h) of the Chiefdom Councils Act, to bring it into conformity with the Convention. It requests the Government to continue to provide information on the application of this Act in practice with regard to the exaction of compulsory labour, including information on the reports filed in this respect with the Human Rights Commission.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Viet Nam

Forced Labour Convention, 1930 (No. 29) (ratification: 2007)

Article 2(2)(a) of the Convention. Compulsory military service. In its previous comments, the Committee noted the Government's statement that all citizens have the obligation to participate in the military service or the militia and self-defence forces, and participation in one service will exempt a person from the obligation to serve in the other. Section 8(3) of the Law on Militia and Self-Defence Forces of 2009 provides that the tasks of the militia and self-defence forces include, inter alia, protecting forests and preventing forest fires, protecting the environment and the construction and socio-economic development of localities and establishments. The Government indicated that this work includes dredging canals, building roads, supporting the economic development of households, planting trees and contributing to reducing and eliminating poverty. Between July 2010 and December 2012, the militia and self-defence forces had 163,124 enlisted persons who worked 2,508,812 working days.

The Committee notes the Government's information in its report that the involvement of militia and self-defence forces in the construction of infrastructure projects and public welfare projects at the grassroots level are conducted on the basis of discussions and self-determination, pursuant to the Ordinance on the democracy in communes, wards and townships No. 34/2007/PL-NASC11. The Committee also notes that, according to section 9 of the Law on Militia and Self-Defence Forces of 2009, Vietnamese citizens aged between 18 and 45 years for men and between 18 and 40 years for women are obliged to join militia or self-defence forces. Its section 10 provides that the term of service in the militia and self-defence force is four years. Moreover, based on the practical situation, the nature of tasks and work requirements, the term of service in the militia and self-defence force may be prolonged for not more than two years for militia persons, or for a longer period for self-defence members and commanders of militia and self-defence units until they reach the age limits. This decision is taken by the chairpersons of People's Committees at the commune level and heads of agencies or organizations.

The Committee observes that, in view of its duration, scope and the broad range of work performed, labour exacted from the population in the framework of compulsory service in the militia and self-defence force goes beyond the exceptions authorized by *Article 2(2)(c)* of the Convention. The Committee reminds the Government that compulsory military service is excluded from the scope of the Convention, provided that it is used "for work of a purely military character". This condition is aimed specifically at preventing the call-up of conscripts for public works (see 2012 General Survey on the fundamental Conventions, paragraph 274). *The Committee therefore urges the Government to take the necessary measures, in law and practice, to ensure that persons working by virtue of compulsory military conscription laws, including in the militia and self-defence forces, only engage in work of a military nature. It also requests the*

Government to provide information on the number of persons performing compulsory service in the militia and self-defence forces.

Article 25. Penal sanctions for forced labour. The Committee previously noted that section 8(3) of the Labour Code of 2012 prohibits the exaction of forced labour. Section 239 of the Labour Code states that persons who violate the Code's provisions, depending on the nature and seriousness of their violations, shall be disciplined and administratively sanctioned or prosecuted for criminal liability. In this regard, the Committee noted the Government's statement that the Ministry of Justice was conducting consultations on the contents of the Criminal Code, and had requested the Government to include the criminal offence of forced labour to the Criminal Code.

The Committee notes with *satisfaction* that the Criminal Code (No. 100/2015/QH13) was adopted on 27 November 2015, section 297 of which provides for penal liability for coercive labour. According to it, any person who uses violence or threat of violence or other methods to force a person to work against his/her will is punishable by a fine of from 50 million to 200 million Vietnamese dong (approximately US\$2,195–\$8,782) or imprisonment from six months to 12 years. **The Committee requests the Government to provide information on the application of section 297 of the Criminal Code of 2015 in practice, including the number of investigations, prosecutions, convictions and specific penalties imposed.**

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 29** (Albania, Algeria, Argentina, Armenia, Australia, Belarus, Belgium, Belize, Benin, Plurinational State of Bolivia, Botswana, Bulgaria, Cabo Verde, Chad, Chile, Congo, Costa Rica, Côte d'Ivoire, Croatia, Djibouti, Dominica, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, France, France: French Polynesia, Gabon, Gambia, Georgia, Germany, Ghana, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Iraq, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kiribati, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libya, Lithuania, Madagascar, Malawi, Malaysia, Republic of Maldives, Mauritius, Republic of Moldova, Montenegro, Morocco, Mozambique, Myanmar, Nepal, Netherlands, Netherlands: Aruba, New Zealand, Nigeria, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Singapore, Solomon Islands, Timor-Leste, Viet Nam, Yemen); **Convention No. 105** (Albania, Algeria, Bahamas, Barbados, Belize, Plurinational State of Bolivia, Bulgaria, Burundi, Cambodia, Chad, Chile, Congo, Côte d'Ivoire, Djibouti, Dominica, Ecuador, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Georgia, Ghana, Grenada, Guinea, Guinea-Bissau, Hungary, India, Indonesia, Iraq, Israel, Kazakhstan, Kiribati, Kuwait, Kyrgyzstan, Latvia, Lebanon, Lesotho, Liberia, Libya, Malawi, Republic of Maldives, Mali, Mauritania, Mauritius, Republic of Moldova, Montenegro, Mozambique, Netherlands: Aruba, Niger, Nigeria, Papua New Guinea, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Sierra Leone, Solomon Islands, Yemen).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 29** (Vanuatu); **Convention No. 105** (Armenia, Italy, Nepal, Vanuatu).

Elimination of child labour and protection of children and young persons

Albania

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

Article 1 of the Convention. National policy and application of the Convention in practice. Following its previous comments, the Committee notes from the Government's report that Law No. 18/2017 on the right and protection of children which provides, among others, for the right of every child to free and quality education and the right to protection from economic exploitation was adopted. Section 34 of this Law establishes various central and state institutional advisory and coordination mechanisms on the rights and protection of children, including: the National Council for the Rights and Protection of the Child; the inter-sectoral technical group at the municipality or local administrative level; a Minister for coordination of issues related to the rights and protection of the child; the State Agency for the Protection of Children's Rights; and the Child Protection Unit.

The Committee notes from the Report on Implementation of Action Plan for Children 2012–15 (Report of the Action Plan) that around 70 per cent of the measures stipulated in the Action Plan, including in the field of social protection and inclusion; protection from all forms of violence, abuse and economic exploitation; and the right to quality and comprehensive education, have been implemented while the long-term measures are still ongoing. In this regard, the Committee notes the following measures taken in the field of social protection and inclusion: (i) social protection strategies to address issues concerning payments of social assistance, including economic aid and other social care services were introduced; (ii) in order to reduce poverty and prevent negative social phenomena that increase exclusion of poor children, a new scheme under the Economic Aid Programme was implemented as a pilot project in three regions of Tirana, Durrës and Elbasan whereby children from poor families were provided 3,000 Albanian lek (ALL) during the period of their school attendance; (iii) social care institutions, residential services and foster care services provided care, accommodation and other services for children in need and in difficult situations and made operational all over the country; and (iv) an operating service standards which will serve to measure and improve the quality of service for the protection of children was approved by the Child Protection and Rights Units (CPUs and CRUs). The Committee also notes from the Report of the Action Plan that in 2015, there were 26 foster families, nine public residential institutions and 15 non-public institutions providing services to 309 children; and there were 202 CPUs at the local level and 12 CRUs at regional level to coordinate children protection services and case monitoring at the local level. It also notes that from January to March 2015, the CPUs managed 849 cases of children at risk. With regard to the Action Plan concerning the protection from all forms of violence, abuse and economic exploitation, the most important measures were those linked with the improvement of the legal frameworks in this field. The amendments to the Criminal Code increased the punishment for sexual offences against children and defined the exploitation of children for labour as a criminal offence. However, the Committee notes from the Report of Action Plan that according to a recent assessment of the welfare status of children in Albania, the proportion of children living in absolute poverty is 17.4 per cent or 147,432 children. **While noting the measures taken by the Government, the Committee requests the Government to strengthen its efforts to combat child labour. It requests the Government to provide information on the specific measures taken in this regard as well as the measures taken by the National Council for the Rights and Protection of the Child; the inter-sectoral technical group; the State Agency for the Protection of Children's Rights; and the CPUs and CRUs to effectively remove children from child labour and the results achieved. Finally, the Committee requests the Government continue to provide information on the application of the Convention in practice, in particular statistical data on the employment of children and young persons by age group.**

Article 2(1). Scope of application and labour inspection. Self-employed children or children working in the informal sector. The Committee previously noted that section 3(1) of the Labour Code, exclude children engaged in work outside of an employment agreement, such as self-employed children or those working in the informal sector, from the Labour Code's coverage.

The Committee notes that the newly adopted regulation "On the Protection of Children at Work Decision No 108/2017" under section 1(2) also excludes, from its applicability, children working outside an employment contract. The Committee notes the Government's information contained in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that it has taken legislative measures to strengthen the labour inspection system in order to effectively monitor and enforce labour legislation at the central and local level. In this regard, the Committee notes the adoption of Law No. 57/2017 "On some amendments and addenda to Law No. 9634/2006 on Labour Inspection". The Committee notes that section 12 of Law No. 57/2017 empowers the labour inspectors to impose urgent measures, including in cases of finding informal employment. It also notes the Government's information that in 2016, the State Labour Inspectorate identified 226 children between the ages of 15 to 18 years who were working in the manufacturing enterprises, trade, call centers and transport department, in violation of the provisions related to the employment of children, for which administrative punishment was issued to four entities. The Committee, however, has noted in its comments of 2017, under the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture)

Convention, 1969 (No. 129) (combined), that the number of inspections in the agricultural sector remained low at 0.8 per cent of the total inspections and that the number of labour inspectors employed by the State Labour Inspectorate and Social Services was low. It also noted that the regional offices did not have sufficient office equipment, or enough vehicles and that the lack of financial resources was also a matter of concern. ***The Committee requests the Government to take the necessary measures to strengthen the functioning of the labour inspectorate by providing it with adequate human, financial and material resources in order to enable it to effectively monitor children working on their own account as well as in the agricultural sector and other informal economy. It also requests the Government to provide information on the measures taken in this regard and on the results achieved as well as to submit any statistical information collected on the number and nature of violations detected related to children engaged in child labour.***

Article 6. Apprenticeship and vocational training. The Committee previously noted that section 3 of Decree No. 384, as amended by Decree No. 205, authorized minors under 14 years of age to be engaged in the vocational training system authorized by the State Labour Inspectorate, in contradiction with *Article 6* of the Convention which authorizes work to be carried out by persons aged at least 14 years.

The Committee notes with **satisfaction** that section 98(4) of the new Labour Code No. 136/2015, which provides that children between the ages of 15 and 16 may undertake vocational guidance and training according to the rules established by a decision of the Council of Ministers, has been adopted.

Article 7(3). Determination of types of light work. In its previous comments, the Committee noted that no regulations had been issued to determine the activities that constitute light work or prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

The Committee notes with **satisfaction** that according to section 99(1) of the Labour Code No. 136/2015, teenagers (children between the ages of 16 and 18) may be hired in light work. "Light work" as defined by this section, include any work that, because of the indivisible nature of the particular duties and conditions in which it is performed, does not prejudice: (i) the safety, health or development of the child; and (ii) the participation of children in school, in vocational training programmes, or the ability of children to take advantage of this training. The Committee also notes that according to section 7(1)(b) and (c) of the Regulation on the Protection of Children at Work (Decision No 108/2017), a teenager (16 to 18 years) may work for up to two hours per day in school days, and 12 hours per week for work performed outside of school hours; and up to six hours a day and 30 hours a week during school holidays. The Committee further notes that according to section 98(3) of the Labour Code and section 9 of the Decision No. 108/2017, children aged between 15 and 16 are permitted to work only during school holidays in light work as authorized by the Labour Inspectorate.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 104th Session, June 2015)

The Committee notes the Government's report dated 22 March 2018 as well as the detailed discussion which took place at the 104th Session of the Conference Committee on the Application of Standards in June 2015, concerning the application by Albania of the Convention.

Article 3(a) of the Convention. Sale and trafficking of children for commercial sexual exploitation. The Committee previously noted the Government's legislative and programmatic measures to protect children from trafficking, including the adoption of Act No. 144 of 2013, which modified the Penal Code to increase the penalties for crimes against children, including crimes related to trafficking as well as the measures taken in the framework of the National Anti-Trafficking Strategy, including the establishment of standard operating procedures on the identification and referral of victims and potential victims of trafficking. The Committee, however, noted that the Committee on the Rights of the Child expressed serious concern that Albania continued to be a source country for children subjected to sex trafficking and noted the lack of available data concerning these children.

The Committee notes that the Conference Committee urged the Government to effectively enforce anti-trafficking legislation, take measures for its effective implementation in practice and to provide information on the progress to the Committee of Experts in this regard, including the number of investigations, prosecutions, convictions and penal sanctions applied.

The Committee notes that the Government's report does not contain any information on the investigations, prosecutions or convictions made with regard to cases of trafficking of children under 18 years. Instead, it refers to the statistical data from the Ministry of Internal Affairs which indicated that 16 girls were identified as subject to sex trafficking in 2016. The Committee, however, notes the information contained in the report submitted by the Government in June 2017, on the measures taken to comply with the Committee of the Parties Recommendation on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings (Government's Report on the Council of Europe Convention, 2017) indicating that in 2016, the Border and Migration Police identified 15 potential victims of trafficking, out of which 11 were minors. Moreover, during January 2016 to April 2017, the 26 field units created in the territory within the framework of the cooperation agreement on the "Identification and protection of children in street situation" signed between the Ministry of Social Welfare and Youth (MoSAY); the Ministry of Internal Affairs, and the Ministry of Education and Sports, identified approximately 580 children in street situation, out of which

two were identified as victims of trafficking and five as potential victims of trafficking. The Committee also notes from the Government's Report on the Council of Europe Convention, 2017 that pursuant to the MOU between the National Anti-trafficking Coordinator, State Police and General Prosecutor for the "Establishment of the Task Force for integrated analysis of the non-initiated and dismissed cases of human trafficking", a Task Force has been established. The Government further indicates that this Task Force is currently analysing a number of cases of trafficking in persons and a report along with recommendations to improve the investigation will be prepared. The Committee notes, however, that the Committee on the Elimination of Discrimination against Women, in its concluding observations of July 2016, noted with concern that the State party remains a source and destination country for trafficking in women and girls, especially trafficking linked to tourism in coastal areas and the lack of information about the number of reports, prosecutions and convictions in cases of trafficking (CEDAWC/ALB/CO/4, paragraph 24). ***While noting the measures taken by the Government in combating trafficking in persons, the Committee urges the Government to take the necessary measures to ensure that, in practice, thorough investigations and prosecutions are carried out in respect of persons who engage in the trafficking of children, and that sufficiently effective and dissuasive penalties are imposed. In this regard, the Committee requests the Government to take the necessary steps to strengthen the capacities of the law enforcement bodies to combat the sale and trafficking of children under 18 years of age, including by taking into consideration the findings and recommendations of the Task Force to improve investigation. It further requests the Government to provide detailed information on the number of investigations, prosecutions, convictions and criminal penalties imposed in cases related to trafficking of children.***

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. Children from Roma and Egyptian communities. In its previous comments, the Committee noted the various measures taken by the Government to enhance the opportunities for Roma children to attend education, including the Action Plan for Children (2012–15) and the Action Plan for the Decade of Roma Inclusion (2010–15), both of which aim to, among others, register and increase the attendance and participation of Roma children in kindergarten and compulsory education. It also noted the various legislative and institutional reforms that have been carried out concerning the admission and attendance of Roma children, as well as its programme of cooperation with UNICEF to provide incentives to Roma children to attend school. It noted, however, from the 2012 assessment report carried out by the National Inspectorate of Pre-University Education (IKAP), with UNICEF assistance, on the implementation of the "The Second Chance" programme that despite the Government's programmes to increase school attendance, the number of Roma children who attended school remained at very low figures.

The Committee notes the Government representative's indication to the Conference Committee that an action plan to protect children from all forms of abuses have been formulated with main focus on training and raising awareness of the public and civil society organizations on child labour. Further, under the coordination of the State Agency for Child Rights Protection, a regional action plan was adopted, and several activities to increase the enrolment of children in schools have been implemented. The Committee notes that the Conference Committee urged the Government to continue to remove barriers to greater participation of Roma and Egyptian children in the education system, including access to free basic education and access to education in their own language as well as to continue taking measures to stop trafficking and the practice of forced begging on the streets.

The Committee notes the Government's information that within the framework of the "School, a community center – a friendly school for everyone" initiative, a number of measures have been taken to reduce the phenomenon of dropping out of school and improving the educational situation of Roma and Egyptian communities and other vulnerable categories. Moreover, the Ministry of Education and Sports has supported projects for education of Roma and Egyptian children, including through facilitating their enrolment in schools without birth certificates, and the provision of free text books and scholarships for children of unemployed parents. According to the Government's report, in the 2015–16 school year, about 7,424 Roma children attended pre-university education; and in 2016–17, about 350 Roma and Egyptian pupils benefitted from the scholarships and free-meals quota. The Committee also notes from the 2015 Report on the Implementation of the National Action Plan for Children (2012–15), that within the framework of the National Action Plan for the Decade of Roma Inclusion 2009–15, during the year 2014–15, 5,766 Roma children were enrolled in undergraduate education, including 4,437 children in primary education. It further notes that the Government adopted the National Action Plan for Integration of Roma and Egyptian Communities 2015–20, with the aim of increasing access to public services for Roma and Egyptians by eliminating barriers and ensuring inclusive education, civil registration and access to health and social services, better employment, and improved housing situation resulting in their overall integration. The Committee notes from the document of this National Action Plan that 33.9 per cent of Roma population are under 14 years of age and should be therefore attending school. However, many children are never enrolled, and the drop-out rates are high. Furthermore, it has been estimated that about 53 per cent of Roma and 16 per cent of Egyptians over 6 years of age do not finish the first grade. ***While noting the measures taken by the Government, the Committee strongly encourages it to intensify its efforts, including through the effective implementation of the National Action Plan for Integration of Roma and Egyptian Communities 2015–20, to facilitate access to education of children in the Roma and Egyptian Communities so as to prevent them from engaging in the worst forms of child labour. It also requests the Government to continue to provide information on the results achieved through these measures, particularly with respect to increasing the school enrolment and completion rates and reducing school drop-out rates of children from Roma and Egyptian communities.***

Clause (d). Identifying and reaching out to children at special risk. Street children. The Committee notes the Government's information that within the framework of the cooperation agreement on the "Identification and protection of children in street situation", various services are provided to families with children in street situations, including registration of each child in the National register of Civil Registry; enrolment in schools; employment of parents; placement in the social care institutions and referral for attendance at day-care centers for children. It also notes the Government's indication that the implementation of the action plans within this cooperation agreement has led to the identification of 578 children in street situation, of which 431 such cases were managed by the Child Protection Units (CPU), including the enrolment of 234 children in schools. The Government report further indicates that the "School, a community center – a friendly school for everyone" initiative, which aims to increase the cooperation and improve the school-family-community partnership in order to develop the full potential of every pupil in all vulnerable categories, has been extended to 222 schools nationwide. The Committee also notes the Government's information in its report under the Minimum Age Convention, 1973 (No. 138), that on 12 April 2018, the State Agency for the Protection of Children's Rights, in cooperation with the Municipality of Tirana organized an awareness-raising programme on the protection of street children.

The Committee further notes from the report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Albania, drafted by the Group of Experts on Action against Trafficking in Human Beings and published in June 2016 (GRETA) that a Task Force was set up in Tirana, comprising of the representatives from the Ministry of Interior (MoI), MoSAY, the office of the National Anti-Trafficking Coordinator, the National Agency for the Protection of Children's Rights and the Tirana regional Police Directorate and the social services to identify and protect children from street situations. Moreover, an initiative entitled "Help for Families and Children in street situations" was also set up by the MoI and the MoSAY with a view to provide interdisciplinary support for children in the streets (paragraph 61). ***The Committee encourages the Government to continue taking measures to protect children living and working on the streets from the worst forms of child labour and to provide for their rehabilitation and social integration. It requests the Government to continue to provide information on the measures taken in this regard and on the results achieved.***

Algeria

Night Work of Young Persons (Industry) Convention, 1919 (No. 6) (ratification: 1962)

Article 3(1) of the Convention. Period during which night work is prohibited. In its previous comments, the Committee noted that, under section 27 of Act No. 90-11 of 21 April 1990 concerning employment relationships (Employment Relationship Act), the term "night work" means any work performed between 9 p.m. and 5 a.m. It also noted that section 28 of the Employment Relationship Act prohibits the employment of workers of either sex under 19 years of age in night work. The Committee noted that the aforementioned Act reiterated the provisions of sections 13 and 14 of Act No. 91-03 of 21 February 1981, on which it had been commenting for many years, as the prohibition of night work for children did not cover a period of at least 11 consecutive hours.

The Committee notes the Government's indication, in its report, that the Committee's comments on this matter are to be discussed so that they can be taken into account in the draft Labour Code under preparation. The Committee notes that the draft bill issuing the Labour Code of the People's Democratic Republic of Algeria defines, in section 43, night work "as any period of work performed between 9 p.m. and 6 a.m. including a working-time interval of seven consecutive hours with a one-hour break". ***Recalling that, under Article 3(1) of the Convention, the term "night" signifies a period of at least 11 consecutive hours, including the interval between 10 p.m. and 5 a.m., and that the Government has been indicating, since 1990, that it will take the Committee's comments into account, the Committee urges the Government to take the necessary steps without delay to give full effect to the provisions of Article 3(1) of the Convention. It requests the Government to provide information as soon as possible on any progress achieved in this respect. It also requests the Government to indicate whether, under section 43 of the draft Bill issuing the Labour Code, work of under seven consecutive hours performed between 9 p.m. and 6 a.m. is considered night work.***

Armenia

Minimum Age Convention, 1973 (No. 138) (ratification: 2006)

Article 2(1) of the Convention. Scope of application. The Committee previously observed that, pursuant to sections 1(1) and 13, the Labour Code of 2004 and its provisions relating to the minimum age of admission to employment or work did not apply to work performed outside the framework of a formal labour relationship, such as self-employment or non-remunerated work. The Government stated that necessary measures would be taken in this regard.

The Committee notes the Government's information in its report that, according to section 1 of the Law on Organizing and Conducting Inspections, inspections are organized and carried out on the activities of commercial or non-commercial entities, as well as individual entrepreneurs, with regard to their compliance with relevant legislation. However, no specific reference is made to the employment of children under this Law. The Committee also notes that,

with the assistance of the ILO, the Armenian National Statistical Service carried out a national survey on child labour and published in 2016 the *Armenia National Child Labour Survey 2015: Analytical Report*. According to the report, 39,300 children (8.7 per cent of children aged 5–17) are involved in child labour, of which a large majority (90.1 per cent) work in agriculture. Moreover, among them, only 5 per cent are employees with a verbal agreement, 25 per cent work on their own account, and 70 per cent are unpaid family workers (pages 53–55). ***Noting a large number of children working in the informal economy, the Committee urges the Government to take, without delay, the necessary measures to ensure that children who are not bound by an employment relationship, such as children performing unpaid work, working in the informal sector or working on a self-employed basis, benefit from the protection provided by the Convention. Pending the adoption of such measures, the Committee requests the Government to indicate how the Law on Organizing and Conducting Inspections is applied in practice to protect children working outside the framework of a formal labour relationship.***

Article 8. Artistic performances. The Committee previously noted the Government's information that it had developed a draft law to amend and supplement the Labour Code in which it is envisaged to regulate the participation of children under the general minimum age in artistic performances.

The Committee notes the Government's information that the Labour Code was amended by Law No. HO-96-N on Amending and Supplementing the Labour Code, which was adopted on 22 June 2015 and entered into force on 22 October 2015. As amended, part 2.2 of section 17 of the Labour Code provides that children under 14 years of age can be engaged in cinematographic, sport, theatre and concert organizations, in circuses, in creative work and/or performance of television and radio productions with the written consent of one of the parents or adopter or guardian or a custody and guardianship body. The activities in these organizations or productions should not be harmful to their health, morality or safety, or prejudice their education. The Committee also notes that part 1 of article 140 provides for reduced working time for children under 14 years of age as follows: (1) for children aged up to 7 years, up to two hours per day, but not more than four hours per week; (2) for children aged 7–12 years, up to three hours per day, but no more than six hours per week; and (3) for children aged 12–14 years, up to four hours per day, but not more than 12 hours per week.

In this regard, the Committee reminds the Government that *Article 8* of the Convention allows exceptions to the prohibition of employment or work of children under the general minimum age, which is 16 years as provided for by the national legislation. Moreover, by virtue of *Article 8(1)*, children may participate in artistic performances, provided that permits are granted in individual cases by the competent authorities, not by the parents or legal guardians. ***The Committee therefore requests the Government to take the necessary measures to ensure that part 2.2 of section 17 of the Labour Code is amended by providing that permits for the participation of children under 16 years in artistic performances are granted by the competent authority and not only by parents, in individual cases.***

Article 9(1). Penalties and law enforcement. The Committee previously noted that, according to section 41 of the Code on Administrative Offences, the violation of the requirements of labour legislation and of other normative legal acts results in warnings issued to the offender. Such violations, if committed for up to one year after the application of the warning, result in a fine equivalent to 50 times the minimum wage. The Government indicated that, since 2005, the inspection body had not received any complaints of exploitation of children nor detected any violations of relevant legislation.

The Committee notes the Government's information that, until July 2015, out of 115 inspections undertaken, four cases of violation of provisions regarding work or employment of children were detected, including two cases of involvement of children in hazardous work and two cases of excessive working hours (36 hours per week) of children aged 16–18 as provided for by the relevant legislation. The persons who violated the abovementioned provisions were subjected to an administrative liability warning. However, the Committee notes that, according to the *Armenia National Child Labour Survey 2015: Analytical Report*, among 52,000 children who participated in economic activities, 39,300 (76 per cent) were involved in child labour, including 31,200 (60 per cent) in hazardous work (page 10).

In this regard, the Committee recalls that, by virtue of *Article 9(1)* of the Convention, all necessary measures shall be taken by the competent authority, including the provision of appropriate penalties to ensure the effective enforcement of the provisions of the Convention. The Committee also observes that the inspection body has only detected a limited number of violations of the relevant legislation, while a large number of children were found engaged in child labour and hazardous work by the national survey. ***The Committee therefore requests the Government to redouble its efforts to ensure that persons found to be in breach of the provisions giving effect to the Convention are prosecuted and that adequate penalties are imposed. It also requests the Government to take the necessary measures to strengthen the inspection services in order to improve their capacity to detect cases of child labour, for example by allocating sufficient resources or by providing adequate training in this regard. It further requests the Government to continue to provide information on the types of violations detected by the inspection bodies, the number of persons prosecuted and the penalties imposed.***

The Committee is raising other matters in a request addressed directly to the Government.

Australia

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2006)

The Committee notes the observations of the Australian Council of Trade Unions (ACTU) received on 4 October 2017.

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for the production of pornography and for pornographic performances. Provincial legislation. New South Wales (NSW). In its previous comments, the Committee noted that Division 15A of the Crimes Act which deals with offences related to child pornography applied only to children under 16 years of age. The Committee also noted the introduction of “child abuse material” by the Crimes Amendment (Child Pornography and Abuse Material) Act 2010 which replaces the word “pornographic performances” and “child pornography” as used under Division 15A of the Crimes Act. According to section 91FB of the Crimes Amendment Act, “child abuse material” means material that depicts or describes, in a way that reasonable persons would regard as being, in all circumstances, offensive: (a) a person who is, or appears to be or is implied to be, a child as a victim of torture, cruelty or abuse; (b) or a person who is, or appears to be or is implied to be, a child engaged in or apparently engaged in a sexual pose or sexual activity (whether or not in the presence of other persons). The Government stated that since the age of sexual consent in NSW was 16 years, raising the definition of a child to 18 years for the purposes of child pornography would lead to criminalize the depiction of otherwise legal conduct. The Government also indicated that increasing the age for pornography or pornographic performances to 18 years would create difficulties for the prosecution while proving the age of the person depicted, as the physical differences between the appearance of a 17-year-old and a 19-year-old are less obvious than the physical differences between a 14-year-old and 16-year-old.

In this regard, the Committee notes the observations made by the ACTU that NSW is yet to take the necessary measures to extend the provisions prohibiting child pornography up to 18 years to ensure compliance with *Article 3(b)* of the Convention.

The Committee notes the Government’s information in its report that the Government of NSW is committed to protecting all young persons from being used in pornography *without their consent*. Children up to the age of 18 years, as well as adults, are protected from commercial sexual exploitation which involves threats or force. The Government indicates that it is an offence under section 80D of the Crimes Act 1900 to cause another person to enter into or remain in sexual servitude, which is defined as the commercial use or display of the body of the person providing the service for the sexual arousal or sexual gratification of others, by the use of force or threats. The maximum penalty for this offence is 15 years’ imprisonment. If the offence is committed against a person under 18 years, the maximum penalty is imprisonment for 20 years. Moreover, the Government of NSW recently introduced new criminal offences of intentionally taking or recording an intimate image of a person *without consent*, and of sharing an intimate image *without consent* (the Crimes Amendments (Intimate Images) Bill 2017, assented to on 27 June 2017).

While noting that the NSW legislation provides protection to children under 16 years of age regarding their involvement in the production of child abuse material and to children above 16 years if they do not consent, the Committee once again emphasizes the importance of distinguishing between the age of sexual consent and the age for protection from commercial sexual exploitation. The Committee considers that all persons under the age of 18 years are entitled to be protected absolutely from commercial sexual exploitation, and that neither the age of consent nor the physical appearance of a child affects the obligation to prohibit the worst forms of child labour. **Consequently, recalling that by virtue of Article 3(b) of the Convention the use, procuring or offering of a child under 18 years of age for the production of pornography or pornographic performances is considered to be one of the worst forms of child labour and, under the terms of Article 1, this worst form of child labour shall be prohibited as a matter of urgency, the Committee once again urges the Government to take the necessary measures to extend this prohibition up to 18 years.**

Articles 3(d) and 4(1). Hazardous work and determination of hazardous types of work. Provincial legislation. Victoria. The Committee previously noted that section 12 of the Child Employment Act 2003 prohibits the employment of a child (defined as a person under the age of 15 years) in door-to-door selling, in a fishing boat, on a building or construction site or in any other prohibited work and the Mines Act 1958 prohibits the employment of children under the age of 14 years in a mine and children under the age of 17 years from working underground in any mine. The Committee therefore requested the Government to take the necessary measures to prohibit the employment of children under 18 years in work which is likely to be harmful to their health, safety or morals.

The Committee notes that no changes in legislation have taken place in Victoria in this regard. The Government states that the prescriptive measures contained in the Child Employment Act 2003 are considered suitable for children under the age of 15 years, and that occupational health and safety legislation contains obligations on employers to ensure that children over this age are protected from harm in workplaces. The Committee, therefore, again reminds the Government that by virtue of *Article 3(d)* of the Convention, work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children constitutes one of the worst forms of child labour and must be prohibited for all children under 18 years of age. The Committee also recalls that, by virtue of *Article 1*, the member States are required to take the necessary measures to prohibit the worst forms of child labour, as a matter of urgency. **The Committee once again urges the Government to take the necessary measures to ensure that children under 18 years of age in Victoria are prohibited from engaging in work which is likely to be harmful to their health, safety or morals.**

The Committee is raising other matters in a request addressed directly to the Government.

Bahamas

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Article 2(2) and (3) of the Convention. Raising the minimum age for admission to employment or work and the age of completion of compulsory schooling. The Committee previously noted that the minimum age for admission to employment or work specified by the Bahamas at the time of ratification was 14 years. It also noted that section 7(2) of the Child Protection Act of 2007 establishes a minimum age of 16 years for admission to employment or work. Furthermore, the Committee noted that, by virtue of section 22(3) of the Education Act, the age of completion of compulsory schooling is 16 years.

The Committee notes the Government's indication in its report that efforts will be taken through a Tripartite Council to rectify the situation and raise the minimum age to 16 as laid down in the national legislation. ***The Committee welcomes this information and expresses the firm hope that the Government will take the necessary measures to raise the minimum age for admission to employment or work from 14 years (initially specified) to 16 years in accordance with the Child Protection Act and in accordance with the age of completion of compulsory schooling under the Education Act. In this regard, the Committee requests the Government to consider the possibility of sending a declaration under Article 2(2) of the Convention thereby notifying the Director-General of the ILO that it has raised the minimum age that it had previously specified.***

Article 3(2). Determination of types of hazardous work. In its previous comments, the Committee had noted that draft regulations under the Health and Safety at Work Act, which include provisions determining the types of hazardous work prohibited for persons under 18 years of age, had been approved by the tripartite social partners.

The Committee notes the Government's information that the draft regulations under the Health and Safety at Work Act have not yet been finalized. It states that these draft regulations will be presented again to the Tripartite Council and will be finalized. ***The Committee once again expresses the firm hope that the Government will take the necessary measures, without delay, to ensure that the draft regulations on the list of types of hazardous work prohibited for persons under the age of 18 years, will be adopted in the near future. It requests the Government to provide information on any progress made in this regard as well as to supply a copy of the list, once it has been adopted.***

Article 7(1) and (3). Minimum age for admission to light work and determination of types of light work activities. The Committee previously noted that section 7(3)(a) of the Child Protection Act provides that a child under the age of 16 may be employed by the child's parents or guardian in light domestic, agricultural or horticultural work. The Committee requested the Government on several occasions to provide information on the measures taken or envisaged in respect of provisions or regulations which would determine light work activities and the conditions in which such employment or work may be undertaken by young persons from the age of 12 years.

The Committee notes the Government's indication that these regulations determining light work activities will be presented to the Tripartite Council and will be finalized. In this regard, the Committee may wish to draw the Government's attention to *Article 7(4)* of the Convention which allows for a lower minimum age of 12 years for light work, only if the specified minimum age is 14 years as per *Article 2(4)* of the Convention, while *Article 7(1)* sets 13 years as the minimum age for light work, if the minimum age declared is 15 years or above. Hence, the Committee requests the Government to take into consideration that in the event of any progress with regard to the raising of the minimum age for admission to employment or work from 14 to 16 years as per *Article 2(2) and (3)* of the Convention, the minimum age for light work should also be amended accordingly. ***The Committee once again urges the Government to take the necessary measures without delay to bring the national legislation in line with the Convention by determining the light work activities that may be permitted to children of 12 or 13 years and above, subject to raising of the minimum age, and the conditions in which such employment or work may be undertaken by them. It requests the Government to provide information on any progress made in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Barbados

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 3(a) of the Convention. Worst forms of child labour. Sale and trafficking of children. The Committee previously noted the adoption of the Transnational Organized Crime (Prevention and Control) Act in 2011, section 8 of which criminalizes the trafficking of persons for the purposes of labour and sexual exploitation.

The Committee takes due note of the Government's information in its report that the Transnational Organized Crime (Prevention and Control) Act of 2011 was repealed and replaced by the Trafficking in Persons Prevention Act 2016-9, which contains comprehensive provisions addressing the issue of trafficking. According to section 4, the trafficking of children for labour and sexual exploitation is punishable by a fine of 2 million Barbadian dollars (BBD) (about US\$990,099), life imprisonment or both. The Committee notes, however, that according to the Government's written replies to the list of issues of the Committee on the Elimination of Discrimination against Women (CEDAW) of 2017, since 2015, no new arrests and charges have been made in relation to trafficking (CEDAW/C/BRB/Q/5-8/Add.1,

paragraph 52). In its concluding observations of 2017, the CEDAW expressed its concern that Barbados remains both a source and a destination country for women and girls, including non-nationals, who are subjected to trafficking for purposes of sexual exploitation and forced labour, as a result of high unemployment, increasing levels of poverty and the weak implementation of anti-trafficking legislation. The CEDAW was also concerned about the lack of information on the number of complaints, investigations, prosecutions and convictions related to the trafficking of women and girls (CEDAW/C/BRB/CO/5-8, paragraph 25). The Committee on the Rights of the Child (CRC) similarly expressed its concern at the high level of internal trafficking of children, the lack of information on the situation in general and the lack of effective measures to address and prevent the sale and trafficking of children in its concluding observations of 2017 (CRC/C/BRB/CO/2, paragraph 58). ***The Committee therefore requests the Government to take the necessary measures to ensure the effective implementation of the Trafficking in Persons Prevention Act 2016-9, particularly in relation to the trafficking of children. It also requests the Government to provide information on the application of section 4 of the Act in practice, including the number and nature of offences reported, investigations, prosecutions, convictions and penal sanctions imposed.***

Articles 3(d) and 4(1). Determination of hazardous work. The Committee previously noted that, while section 8(1) of the Employment (Miscellaneous Provisions) Act prohibits the employment of a young person in any work that by its nature or the circumstances in which it is done is likely to cause injury to his/her health, safety or morals, the national legislation does not contain a determination of these types of work, as required under *Article 4(1)* of the Convention. The Government indicated that the formulation of a list of types of hazardous work prohibited to persons under 18 years of age was being considered. The Committee also noted that the Safety and Health at Work Act 2005 entered into force in January 2013 and that draft regulations under the provisions of this were forwarded for comments to the representative employers' and workers' organizations.

The Committee notes the Government's repeated indication that the types of hazardous work prohibited to persons under 18 years of age are addressed in specific pieces of legislation, including the Factories Act, the Pesticide Control Regulations, the Protection of Children Act and the Employment (Miscellaneous Provisions) Act. However, the Committee observes that these provisions together do not constitute a comprehensive determination of the types of hazardous work prohibited for persons under 18 years of age. The Committee also notes the Government's statement that none of the draft regulations under the Safety and Health at Work Act deal with this issue. Considering that it has been referring to this issue since 2004, the Committee must express its ***deep concern*** at the absence of a comprehensive list of the types of hazardous work prohibited for children. The Committee once again draws the Government's attention to *Article 4(1)* of this Convention, according to which the types of work referred to under *Article 3(d)* must be determined by national laws or regulations or by the competent authority, taking into consideration relevant international standards, in particular Paragraph 3 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190). ***The Committee therefore urges the Government to take the necessary measures to ensure that the determination of types of hazardous work prohibited for persons under the age of 18 is included in national legislation, after consultation with the organizations of employers and workers concerned, and to provide information on any progress made in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Benin

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

Article 2(1) and (3) of the Convention. Minimum age for admission to employment or work and age of completion of compulsory schooling. In its previous comments, the Committee noted that section 4 of Act No. 2011-26 of 9 January 2012 concerning the prevention and elimination of violence against women stipulates that schooling is now compulsory for all children until the age of 16 years, regardless of their sex, race or religion. The Committee also observed that the minimum age for admission to employment (14 years) is now lower than the age of completion of compulsory schooling (16 years). The Committee asked the Government to take the necessary steps to raise the general minimum age for admission to employment or work so as to link it to the age of completion of compulsory schooling.

The Committee notes the Government's indication that the new draft Labour Code which is being examined by the Supreme Court has raised the minimum age for admission to work or apprenticeships to 15 years. The Committee notes that despite this increase, the age of completion of compulsory schooling is still higher than the minimum age for admission to employment. The Committee notes, however, that the Government undertakes to harmonize its legislation by rectifying these disparities. In this regard, the Committee notes that section 113 of Act No. 2015-08 issuing the Children's Code in Benin, adopted on 23 January 2015, provides that schooling is compulsory from nursery level to the end of primary school. According to the final report of the 2014 Multiple Indicator Cluster Survey (MICS), undertaken by the National Institute of Statistics and Economic Analysis (INSAE) in partnership with the United Nations Children's Fund (UNICEF) and published in January 2016, children attend secondary school from the age of 12 years in principle (page 249). The Committee also observes that, under section 409 of the Children's Code, any previous provision is repealed. The Committee recalls once again that compulsory schooling is one of the most effective means of combating child labour, and hence there is a need to link the age for admission to employment to the age at which compulsory schooling comes to an end. It emphasizes that *Article 2(3)* of the Convention stipulates that the minimum age for admission to

employment shall not be less than the age of completion of compulsory schooling. ***The Committee therefore requests the Government to indicate clearly the age of completion of compulsory schooling and to take the necessary steps to raise the general minimum age for admission to employment or work so as to link it to the age of completion of compulsory schooling. The Committee also requests the Government to provide information on progress made in this regard.***

Articles 6 and 9(1). Apprenticeships and penalties. The Committee previously noted that any person who violates the provisions of the Labour Code or of decrees relating to the employment of children shall, under sections 298–308 of the Labour Code, be liable to a fine and imprisonment. It also noted that, according to reports on inspections conducted in workshops in 2013 and 2014, the Departmental Service for Further Training and Apprenticeships recorded cases of non-compliance with the minimum age required for apprenticeships, with children between 9 and 12 years of age discovered working as apprentices in workshops under precarious conditions and without remuneration. The Committee also noted that the above reports indicated, inter alia, that employers in artisanal workshops are reluctant to provide the information requested by the inspection teams and that these teams rarely manage to meet the employers in order to raise their awareness.

The Committee notes the Government's indication that it is taking action to ensure that effective penalties constituting an adequate deterrent are imposed in practice on artisanal employers who admit children under 14 years of age to apprenticeship centres. ***The Committee requests the Government to intensify its efforts to ensure that effective penalties constituting an adequate deterrent are applied in practice for violations of the provisions regarding the minimum age of 14 years for admission to an apprenticeship. The Committee requests the Government to provide information on the number and nature of violations reported and penalties imposed.***

Article 7(1), (3) and (4). Admission to light work and determination of such work. In its previous comments, the Committee noted that Order No. 371 of 26 August 1987, issuing exceptions to the minimum age for admission to employment for children, authorizes as an exception the employment of children between 12 and 14 years of age in domestic work and light work of a temporary or seasonal nature. The Committee observed that the terms of *Article 7* of the Convention – namely, that the work: (i) is not likely to be harmful to children's health or development; (ii) is not such as to prejudice their attendance at school or their participation in vocational guidance or training programmes; and (iii) shall be determined by the competent authority, which shall prescribe the number of hours and the conditions of employment – were not fulfilled.

The Committee also noted the Government's indication that the National Labour Council approved a draft order amending Order No. 371, with a view to raising the minimum age for the admission of children to light work. The Government also indicated that Order No. 371 has still not been amended since the list of types of light work has not yet been determined in Benin. It was planned to determine the types of light work in 2015. The Committee asked the Government to keep it informed of progress made in this respect.

The Committee notes the lack of information on this point. ***The Committee again expresses the strong hope that the draft order amending Order No. 371 will be adopted as soon as possible, with provisions that are in line with Article 7 of the Convention. It requests the Government to continue to provide information on progress made in this respect.***

Application of the Convention in practice. In its previous comments, the Committee noted the lack of databases with precise statistical data relating to the number of working children under the minimum age for admission to employment or work.

The Committee notes the Government's indication that five departmental directorates have benefited from the installation of the database on the child labour monitoring system (SSTEB). However, the implementation of this database has not yet been effective because of a number of issues. The Government reassures the Committee that it will do everything possible to ensure that the system becomes operational in 2018. Moreover, as part of the reforms initiated at the Directorate-General of Labour, the labour planning and statistics unit has been set up. The aim of setting up this unit is to make the system of labour statistics in Benin operational in 2018, thereby facilitating the availability of reliable statistics on child labour. The Committee also notes that, according to the final report of the 2014 MICS, undertaken by the INSAE in partnership with UNICEF and published in January 2016, 53 per cent of children between 5 and 17 years of age are involved in child labour and 40 per cent of them are working under hazardous conditions (page 276).

The Committee notes with *concern* the high number of children who are working in Benin, including under hazardous conditions. ***In this regard, the Committee urges the Government to intensify its efforts to prevent and progressively eliminate child labour in the country, and in particular hazardous work. It also requests the Government to provide information on progress made in making the child labour monitoring system (SSTEB) database operational. It also requests the Government to provide statistical information on the number and nature of violations recorded by labour inspectors in the course of their work involving children below the minimum age for admission to employment, including those who are working on their own account or in the informal sector. As far as possible, this information should be disaggregated by sex and age.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Article 3 of the Convention. Clause (a). Worst forms of child labour. Forced labour. Vidomégon children. The Committee previously noted that Benin has a large number of *vidomégon* children, namely children who are placed in the

home of a third party by their parents or by an intermediary in order to provide them with education and work, who are mostly from rural areas and do not attend school. It noted that this practice, which has long been considered a sign of traditional solidarity between parents and family members, is now being abused in certain cases. Some of the children involved in the system are subjected to ill-treatment or even physical or psychological violence.

The Committee notes that the Government has not sent any information on this matter. It notes that section 219 of the Children's Code (Act No. 2015-08 of 8 December 2015) establishes the obligation for the child placed in the family to attend school and prohibits the use of such children as domestic workers. However, the Committee notes that the Committee on the Rights of the Child (CRC), in its concluding observations of 2016, expressed concern at the fact that children placed outside their families, particularly *vidomégon* children, are facing sexual exploitation. The CRC also expressed concern at the prevalence of child labour among children under 14 years of age, including the worst forms of child labour, and at the distortion of the traditional practice of *vidomégon* into forced labour. Moreover, the CRC expressed concern that there was no information on measures taken to punish persons who exploit children, on whether the decisions taken by the National Steering Committee to Combat Child Labour were being implemented, and whether the latter had been allocated sufficient resources (CRC/C/BEN/CO/3-5, paragraphs 38 and 62).

The Committee also observes that the United Nations Human Rights Committee, in its concluding observations of 2015 on the second periodic report of Benin, expressed concern at the persistent misuses of the placement of *vidomégon* children, which has become a source of financial and sometimes sexual exploitation (CCPR/C/BEN/CO/2, paragraph 14).

The Committee notes with *concern* the situation of those *vidomégon* children, who face various forms of exploitation in host families. ***The Committee therefore urges the Government to take the necessary steps to protect children under 18 years of age from all forms of forced labour or sexual exploitation particularly vidomégon children. It also requests the Government to take the necessary steps to ensure that penalties constituting an adequate deterrent are imposed on the perpetrators of such acts. Lastly, the Committee requests the Government to provide information on the practical steps taken in this regard.***

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and criminal penalties. Sale and trafficking of children. In its previous comments, the Committee noted the adoption of Act No. 2006-04 of 10 April 2006 establishing conditions for the movement of young persons and penalties for the trafficking of children in the Republic of Benin, which prohibits the sale and trafficking of children for economic or sexual exploitation. However, the Committee expressed its concern at the scale of the internal trafficking of children for economic exploitation in Benin and at the decrease in the number of convictions following the adoption of Act No. 2006-04.

The Committee notes the Government's indication in its report that Act No. 2006-04 of 10 April 2006 is generally well applied. The Committee also notes that the Children's Code of 2015 contains provisions relating to the sale and trafficking of children (sections 200–203 and 212). The Government also indicates that statistics on the number of convictions and criminal penalties handed down are not yet available. Furthermore, the statistics requested from the Central Office for the Protection of Children and Families and the Elimination of Trafficking in Persons (OCPM) relating to children who have been removed from trafficking and repatriated are not available either.

The Committee further notes that the CRC expressed concern at the number of children who fall victim to internal trafficking for the purpose of domestic work, subsistence farming or trade or, particularly in the case of adolescent girls, to transnational trafficking for sexual exploitation and domestic labour in other countries. The CRC also expressed concern that the tradition of *vidomégon* children could be feeding sale and trafficking networks (CRC/C/BEN/CO/3-5, paragraph 66). Furthermore, the Committee notes that the Human Rights Committee, in its concluding observations of 2015, continued to express concern that Benin is at the same time a country of origin, transit and destination for trafficking in persons, and in particular women and children (CCPR/C/BEN/CO/2, paragraph 14). ***Recalling that, under Article 7(1) of the Convention, the Government is required to take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the application of criminal penalties constituting an effective deterrent, the Committee urges the Government to take effective measures to ensure that Act No. 2006-04 of 10 April 2006 is actually applied in such a way that the prohibition on the sale and trafficking of children is extended to all sectors of the economy. The Committee also requests the Government to provide information on the number of investigations, prosecutions, convictions and criminal penalties imposed for the offence of trafficking in persons under 18 years of age.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing assistance for the removal of children from such labour. Children working in mines and quarries. In its previous comments, the Committee noted the observation from the Confederation of Autonomous Trade Unions of Benin (CSA-Bénin) that, in certain localities in the country, it is not uncommon to see children and young persons working with their parents in activities such as breaking stones for the purposes of selling. The Committee noted that a survey was conducted as part of the ILO–IPEC ECOWAS II project, which indicated that a total of 2,995 children had been found working on 201 different mining sites, and 88 per cent of them were children of school age.

The Committee notes that the Government's report does not contain any information on this matter. The Committee notes that further to the implementation of the ILO–IPEC ECOWAS II project (December 2010–April 2014), targeted

actions were carried out to prevent child labour on mining sites, such as awareness raising and occupational safety and health training for mining site operators. Quarry operators have also established internal regulations prescribing penalties for operators or parents who use child labour on the sites. Alert mechanisms have also been put in place to notify site supervisors of the presence of working children. *The Committee encourages the Government to continue taking effective and time-bound measures to protect children from hazardous work in the mining and quarrying sector. It requests the Government to send information on the number of children protected or removed from this hazardous type of work and subsequently rehabilitated and integrated into society further to the implementation of the ILO-IPEC ECOWAS II project.*

The Committee is raising other matters in a request addressed directly to the Government.

Plurinational State of Bolivia

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

The Committee notes the joint observations of the International Organisation of Employers (IOE) and the Confederation of Private Employers of Bolivia (CEPB), received on 31 August 2018, the Government's report and the in-depth discussion on the application of the Convention by the Plurinational State of Bolivia that took place in the Committee on the Application of Standards at the 107th Session (June 2018) of the International Labour Conference.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

Article 2(1) of the Convention. Minimum age for admission to employment or work and labour inspection. In its previous comments, the Committee noted the observation made by the International Trade Union Confederation (ITUC) concerning the adoption by the Government of the new Code for Children and Young Persons of 17 July 2014, amending section 129 of the previous Code through the addition of section 129(II), which reduces, under exceptional circumstances, the minimum age for admission to work for children from 14 to 10 years for own-account workers, and reduces it to 12 years for children in an employment relationship. The ITUC observed that these exemptions from the minimum age of 14 years are incompatible with the exceptions to the minimum age authorized for light work established under *Article 7(4)* of the Convention, which does not authorize work by children under 12 years of age. The Committee also noted the ITUC's statement that authorizing children to work from the age of 10 years would inevitably affect their compulsory schooling, which, in the Plurinational State of Bolivia, consists of a fixed period of 12 years, namely at least up to 16 years of age. The Committee also noted the joint observations of the IOE and the CEPB indicating that the high proportion of work in the informal economy (70 per cent) encourages child labour, since it is not subject to labour inspection, and that there is no child labour in the formal sector.

Also in its previous comments, the Committee deeply deplored the Government's indication that the amendments made to section 129 of the Code for Children and Young Persons would remain in place as provisional measures. The Government indicated that the new exemptions from the minimum age of 14 years, as set out in section 129 of the Code, can only be registered and authorized on condition that the work done does not jeopardize the child's right to education, health, dignity and general development. Furthermore, the Committee expressed deep concern at the distinction made between the minimum age fixed for own-account child workers (10 years), and the minimum age fixed for children engaged in an employment relationship (12 years). Lastly, the Committee noted that the Ministry of Labour, Employment and Social Welfare was giving effect to the Convention through integrated and inter-sectoral routine and complaint-based inspections conducted by the services for the protection of children and young persons in order to highlight cases involving work by children under 14 years of age.

Recalling that the objective of the Convention is to eliminate child labour and that it encourages the raising of the minimum age, but does not authorize its reduction once the minimum age has been set (14 years at the time of ratification of the Convention by the Plurinational State of Bolivia), and while duly noting the positive results of the economic and social policies implemented by the Government, the Committee urged the Government to repeal the provisions of the legislation setting the minimum age for admission to employment or work and to immediately prepare a new law, in consultation with the social partners, increasing the minimum age for admission to employment or work in conformity with the Convention. Lastly, the Committee observed the Government's indication that there are 90 labour inspectors (four more than in 2012), and it asked the Government to provide the labour inspectorate with increased human and technical resources and training for inspectors with a view to ensuring a more effective application of the Convention.

The Committee notes that the Government representative drew the Conference Committee's attention to Decision No. 0025/2017 of the Constitutional Court of 21 July 2017, which declared section 129(II) of the Code for Children and Young Persons and its related sections (130(III); 131(I), (III) and (IV); 133(III) and (IV); and 138(I)) to be unconstitutional. The Conference Committee noted that the Constitutional Court used *Articles 1, 2 and 7* of the Convention as a reference point and the legal basis for its decision. In its conclusions, the Conference Committee urged the Government to adapt the national legislation, in consultation with the most representative employers' and workers' organizations, following the repeal of the provisions of the Code for Children and Young Persons by the Constitutional Court, in accordance with the Convention. The Conference Committee also urged the Government to provide the labour

inspectorate with increased human, material and technical resources, in particular in the informal economy, in order to ensure the more effective application of the Convention in law and in practice.

The Committee notes the joint observations of the IOE and the CEPB, asking the Government to bridge the legal gap left by the Constitutional Court decision by amending the legislation to bring it into conformity with the Convention. The Committee notes with *interest* the Government's indication in its report that, further to the decision of the Constitutional Court, the minimum age for access to employment or work established in section 129 of the Code for Children and Young Persons is 14 years, in conformity with the Convention. However, the Committee notes the Government's indication that, since the decision of the Constitutional Court is binding, there is no need to revise the Code for Children and Young Persons since the provisions which are contrary to the Convention no longer have the force of law. Moreover, the Committee notes the Government's indication that the number of labour inspectors has increased to 103 since 2017 and that the labour inspectorate used mobile offices in 2016–17 to carry out 1,874 inspections in connection with child labour and forced labour, of which 30 per cent were referred to the courts. ***While noting that section 129(II) of the Code for Children and Young Persons and its related sections have been declared unconstitutional by the Constitutional Court, the Committee also notes the importance in legal terms and in accordance with the ILO Constitution, of having the legislation being in conformity with the ratified Conventions. Accordingly, the Committee requests the Government, in consultation with the employers' and workers' organizations, to take all necessary steps to amend the Code for Children and Young Persons so as to fix the minimum age for access to employment or work at 14 years, in conformity with the Convention and the decision of the Constitutional Court in order to eliminate any confusion and thereby minimize the risk of non-compliance with the Convention. It requests the Government to send information on all progress made in this regard. The Committee also requests the Government to continue its efforts to strengthen the capacities of the labour inspectorate and to indicate the methods used to ensure that the protection provided for by the Convention is also afforded to children working in the informal economy.***

Article 6. Apprenticeships. In its previous comments, the Committee noted that, under sections 28 and 58 of the General Labour Act, children under 14 years of age may work as apprentices with or without pay, and it reminded the Government that, under *Article 6*, the Convention does not apply to work done by persons at least 14 years of age in undertakings where such work is carried out as part of a course of education or a programme of training or vocational guidance. The Committee also noted the Government's indication that labour inspectors were responsible for implementing measures to ensure that children under 14 years of age do not engage in apprenticeships. The Committee recognized that measures to reinforce the labour inspection services were essential to combat child labour, but noted that labour inspectors needed a basis in law consistent with the Convention to enable them to ensure that children are protected against conditions of work liable to jeopardize their health or development. It noted that, although the Government refers to Act No. 070 *Avelino Siñani-Elizardo Pérez* of 20 December 2010 which regulates the system of education and apprenticeships, this Act does not prescribe a minimum age for work as an apprentice.

The Committee notes once again with *concern* that the Government's report still does not provide any new information on the steps taken to prohibit children under 14 years of age from engaging in apprenticeships. The Government merely indicates that sections 28–30 of the General Labour Act taken together with section 129 of the Code for Children and Young Persons fix the minimum age for apprenticeships at 14 years. However, the Committee notes that sections 28–30 of the General Labour Act do not prescribe the minimum age for signing an apprenticeship contract and do not make any reference to section 129 of the Code for Children and Young Persons. ***Recalling once again that it has been drawing the Government's attention to this matter for over ten years, the Committee strongly urges the Government to take the necessary steps to harmonize the provisions of the national legislation with Article 6 of the Convention so as to fix without delay the minimum age for admission to employment or work at 14 years.***

Article 7(1) and (4). Light work. The Committee previously noted that sections 132 and 133 of the Code for Children and Young Persons allow children between 10 and 18 years of age to perform light work, subject to the authorization of the competent authority, under conditions which limit their hours of work, do not endanger their life, health, safety or image, and do not interfere with their access to education. It recalled that under *Article 7(1) and (4)* of the Convention, the employment of persons in light work is permitted, under certain conditions, from 12 and not 10 years of age, and it therefore urged the Government to take the necessary steps to amend sections 132 and 133 of the Code for Children and Young Persons.

The Committee notes the Government's indication that it does not consider it necessary to amend the legislation since Decision No. 0025/2017 of the Constitutional Court has invalidated the provisions of sections 132 and 133, which are contrary to the Convention. ***The Committee requests the Government, in consultation with the social partners concerned, in the light of the decision of the Constitutional Court, and the importance, in accordance with the ILO Constitution of having the legislation being in conformity with the ratified Conventions, to take the necessary steps to amend the Code for Children and Young Persons so that the age for admission to light work is fixed at no less than 12 years, in accordance with Article 7(1) and (4) of the Convention.***

Article 9(3). Keeping of registers. In its previous comments, the Committee noted that, under section 138 of the Code for Children and Young Persons, registers for child workers are required in order to obtain authorization for work. The Committee observed that these registers include the authorization for children between 10 and 14 years of age to work. It also noted Decision No. 434/2016, which provides for the inclusion in a register of minors under 14 years of age

who are engaged in work, and Decision No. 71/2016 created the Information System on Children and Young Persons (SINNA), which registers and contains information on the rights of the child, including information relating to children working on their own account or for a third party.

The Committee notes the Government's indication that further to Decision No. 0025/2017 of the Constitutional Court declaring section 138(I) of the Code for Children and Young Persons unconstitutional, the SINNA system has been modified to enable the registration of young workers from the age of 14 and not 10 years. ***The Committee urges the Government, in consultation with the social partners, to take the necessary steps to amend the Code for Children and Young Persons so that, further to inclusion in the registers, only children who are at least 14 years of age may be permitted to work, in accordance with the Convention and the practice of the SINNA system.***

The Committee reminds the Government that it may request technical assistance from the ILO in order to bring its law and practice into conformity with the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

Botswana

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes the observations of the Botswana Federation of Trade Unions (BFTU), received on 1 September 2018.

Articles 3(a) and 6 of the Convention. *All forms of slavery or practices similar to slavery and programmes of action. Sale and trafficking of children.* The Committee takes due note of the adoption of the Anti-Human Trafficking Act in July 2014, introducing a specific offence of trafficking in persons in the national legislation, as well as the establishment of a Human Trafficking (Prohibition) Committee in 2015. It notes that the perpetrator of trafficking for the purposes of forced labour or exploitation of another person's prostitution is liable to a term of imprisonment of up to 30 years and/or a fine not exceeding 1 million Botswana pula (approximately US\$93,170), pursuant to section 9 of the Anti-Human Trafficking Act. The law provides for the creation of centres for child victims of trafficking, to ensure protection, care, counselling, education and rehabilitation of children (section 18). The Committee notes the Government's indication in its report that a National Action Plan on human trafficking has been developed. Furthermore, it notes the Government's indication that the Southern African Development Community (SADC) Strategic Plan on combating trafficking in persons, especially women and children for the 2009–19 period, is being implemented through the SADC Regional Political Cooperation Programme. The United Nations Office on Drugs and Crime (UNODC) indicates that together with SADC Member States, including Botswana, UNODC has developed an Anti-Trafficking in Persons Data Collection System, to ensure the collection of reliable data on the crime of trafficking in persons.

The Committee notes the observations of the BFTU reporting the continued existence of practices of trafficking in children despite national laws and control measures. The BFTU also states that public education on trafficking and slavery is not adequately done. ***The Committee urges the Government to strengthen its efforts to ensure the effective application of the Anti-Human Trafficking Act and requests it to provide information in this regard, including the number of infringements reported, investigations, prosecutions, convictions and penalties applied for the sale and trafficking of children under 18 years of age. It also requests the Government to provide information on the adoption and implementation of the National Plan of Action on human trafficking and its impact in terms of the elimination of trafficking in children.***

Article 4(1). Determination of hazardous work. The Committee previously noted the Government's statement that the Tripartite Labour Advisory Board had prepared a draft list of hazardous types of work prohibited to young persons, which was being circulated to the relevant ministries for their endorsement. The Committee accordingly requested the Government to pursue its efforts to ensure the adoption, in the near future, of the list determining the types of hazardous work prohibited to persons under 18 years of age.

The Committee notes with ***interest*** the drafting of the list of hazardous types of work by the tripartite constituents, which includes such types of work as: handling and spraying of pesticide and herbicide and the exposure to chemicals, toxic dust, fumes and gases; garbage collecting; the lifting of heavy loads; unsupervised fishing and extraction of water from wells; the brewing of alcoholic beverages; working underground, at night or at heights; and building and construction work. The Committee notes the Government's indication that the incorporation of the list of hazardous types of work into the Employment Act will be considered during the ongoing labour law review process. ***The Committee expresses the firm hope that the draft list of types of hazardous work prohibited to children under 18 years of age will be adopted in the very near future. It requests the Government to supply a copy of this list, once it is adopted.***

Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour. Child victims of commercial sexual exploitation. In its previous comments, the Committee noted that the United Nations Committee on the Elimination of Discrimination against Women expressed concern, in its concluding observations of 2010, that women and girls enter into prostitution to support themselves and their families as a result of poverty. It noted that, within the national Action Programme on the Elimination of Child Labour (APEC), a total of 1,927 children were prevented and withdrawn from child labour, including from commercial

sexual exploitation. The Committee also noted the Government's statement that children engaged in commercial sexual exploitation are identified as children in need of protection under the Children's Act of 2009 and that, according to section 54, the Minister shall develop programmes and rehabilitative measures to reintegrate abused or exploited children.

The Committee notes the Government's statement that children in need of protection can be placed in child welfare institutions, and receive psychosocial support. The Government indicates that, taking into account all forms of vulnerability, there are currently more than 450 children in child welfare institutions. The Government also states that a study on violence against children has recently been completed and that the results will give an indication of the prevalence of violence, in its different forms, among children. *The Committee requests the Government to pursue its efforts to remove children engaged in commercial sexual exploitation, and to provide them with the necessary and appropriate direct assistance, pursuant to section 54 of the Children's Act. It requests the Government to provide information on the number of child victims of commercial sexual exploitation who have been effectively removed, rehabilitated and socially integrated as a result of the measures implemented, including by providing the statistics compiled as a result of the study on violence against children.*

The Committee is raising other matters in a request addressed directly to the Government.

Brazil

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes the observations of the Signal Confederation of Workers (CUT), received on 1 September 2017.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted the various measures taken by the Government for the elimination of child labour, including the setting up of a specific inspection scheme and inter-sectoral strategy actions within the Child Labour Eradication Programme (PETI), as well as the income transfer initiatives, such as the *Bolsa Familia* programme. Other programmes implemented included the Programme of Integral Attention to Families (PAIF) and the Basic Social Protection Programme. Moreover, the Government had designed and implemented the Plan for overcoming extreme poverty – Brazil without misery, which increased the reach of its income transfer programmes by including 1.3 million children and adolescents in the Family Grant conditional cash transfer programme (*Brazil Carinhoso*) and expanded the maximum number of children entitled to additional benefits from three to five per family. The Committee also noted the information on the activities carried out and results achieved within the framework of ILO–IPEC activities in Brazil, particularly with regard to the elimination of child labour through education. The Committee welcomed the Government's information that the results of the national household surveys from 1992 to 2012 indicated a drastic reduction in child labour from 8.4 million children (between the ages of 5–17 years) in 1992, to 3.3 million children in 2014.

The Committee notes the information in the observations of the CUT that, according to the recent national household surveys, there was a significant increase (12.3 per cent) in the number of children aged 5–9 involved in child labour from 2014 to 2015. It also indicates that, according to the 2014 data, 65.5 per cent of child labourers were boys and Afro-Brazilian children.

The Committee notes the Government's information in its report that, with regard to income transfer initiatives, following the adoption of Ordinance No. 318/2016 by the Ministry of Social Development, families with children and adolescents identified as engaged in child labour are included as beneficiaries in the Family Grant Programme, which replaced the income transfer scheme through the PETI. Children and adolescents engaged in child labour receive support from the Living Together and Strengthening Links Program (SCFV) in over 5,000 municipalities. Preliminary data from the Monthly Income Record on the Social Assistance Reference Centres (CRAS) shows that, in 2016, 188,000 families with children and adolescents engaged in child labour were registered at the Service of Protection and Special Attention to Families and Individuals of the Social Assistance Specialized Reference Centre (PEAFI/CREAS). Furthermore, according to the national household survey carried out by the Brazilian Institute of Geography and Statistics (IBGE), the number of children and adolescents (aged 5–15) engaged in child labour fell from 1,405,100 in 2014 to 1,064,117 in 2015. The latter number included an estimated 78,000 children aged 5–9, 333,000 children aged 10–13 and 652,000 adolescents aged 14–15. Among these children, 69.7 per cent were boys, 51.9 per cent lived in urban areas, and 53.6 per cent were involved in unpaid labour. On average, child labourers worked 26.7 hours per week.

The Committee also notes that, with the support of ILO–IPEC, the draft National Plan for the Prevention and Eradication of Child Labour and Protection of Working Adolescent is under third revision, and that it is expected to be finalized in July 2018. The Committee further notes that, according to a joint ILO–UNICEF–World Bank report entitled “Understanding Trends in Child Labour” of November 2017, in Brazil, long-term structural changes in the characteristics of the population and the economy made a substantial contribution to the observed changes in child labour and education. Reduced poverty and inequality together accounted for over 14 per cent of the decline in child labour and for over 12 per cent of the rise in school attendance. *Bolsa Familia*, independent of its impact on poverty, accounted for 10 per cent of the decrease in child labour and 17 per cent of the increase in school attendance. Moreover, investments in extending access to public services, which helped reduce the value of children's time outside the classroom, were responsible for 9 per cent of progress against child labour and 8 per cent of progress in raising school attendance. *Welcoming the concrete*

measures taken by the Government and positive results achieved, the Committee requests it to continue its efforts to ensure the progressive elimination of child labour in the country, with a focus on lower age children, boys and Afro-Brazilian children. It also requests the Government to continue to provide information on the measures taken within the framework of the reformed PETI, the Family Grant Programme and other initiatives, as well as to provide statistical information on the results achieved in this regard. The Committee finally requests the Government to provide information on any progress made regarding the adoption of the National Plan for the Prevention and Eradication of Child Labour and Protection of Working Adolescent, and to provide a copy once adopted.

Article 2(1). Scope of application. In its previous comments, the Committee noted that section 402 of the Consolidated Labour Act excludes from its scope, work by children and young persons in family enterprises, that is, in economic activities for the purpose of family subsistence and maintenance. The Committee also noted from the ILO report of 2013 *Decent Work Country Profile – A sub-national perspective in Brazil*, that of the estimated 910,000 children under the age of 14 years working in agricultural establishments, 85.6 per cent of them worked in family agriculture. The Government indicated that the fight against child labour in Brazil, through regular inspections and specific programmes for the eradication of child labour, comprised both the formal and informal sectors, including family enterprises. In this regard, the Committee referred to its observation under the Labour Inspection Convention, 1947 (No. 81), that a significant proportion of young persons between 5 and 14 years of age in child labour worked in private households, and this situation restricted intervention by inspectors, on account of the principle of inviolability of the home, apart from the fact that the application of legal enforcement instruments was restricted to formal employment relationships.

The Committee notes the Government's information that the labour inspectorate is supported by various child and adolescent protection bodies and entities in order to identify violations and conduct interventions in all sectors, regardless of whether there is a formal labour relationship. The Government also indicates that, in order to better plan and monitor the activities to combat child labour, as well as to ensure the transparency of the labour inspection reports, the Information System on Child Labour Hotspots (SITI) was established through cooperation between the Ministry of Labour and the ILO. The SITI identifies child labour hotspots in both formal and informal sectors, as well as occupational risks and their impact on health. From January 2014 to April 2017, 25,815 inspections were carried out, covering 24,213 children and adolescents. However, the Committee notes that, according to the observations of the National Union of Labour Inspectors (SINAIT) under Convention No. 81 of 2017, the labour inspectorate was not able to guarantee its regular operation due to a significant budget cut (50 per cent) in 2017. As a result, the implementation of scheduled activities could only be ensured until July 2017. It further indicates in its observations under the Worst Forms of Child Labour Convention, 1999 (No. 182), of 2017, that labour inspectors do not possess transportation means to carry out a large part of their inspections on child labour in remote or inland rural areas. The Committee further notes that, in its concluding observations of 2015, the Committee on the Rights of the Child (CRC) expressed its concern at the high prevalence of child labour in the informal and agricultural sectors, including unregulated work, street vending, garbage collecting and forced labour under slavery-like conditions on farms (CRC/C/BRA/CO/2-4, paragraph 81). *The Committee therefore urges the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate services, in order to ensure that instances of child labour in the informal economy are identified and that children under the age of 16 years who are self-employed or working in family agriculture, benefit from the protection afforded by the Convention. The Committee also requests the Government to continue providing information on the measures taken in this regard and on the results achieved.*

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 7(2) of the Convention. Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and assistance for their removal from the worst forms of child labour and for their rehabilitation and social integration. Trafficking and commercial sexual exploitation of children. The Committee previously noted the Government's information that the Ministry of Social Development and Fight Against Hunger had integrated within the National Plan for Combating Sexual Violence against Children, 2013, preventive and protective measures for child victims of sexual exploitation. The Government also indicated that the Inter-sectorial Commission for Combating Sexual Violence against Children and Adolescents continued to work systematically on simultaneous fronts of protection, justice and support to children and adolescents.

The Committee notes the Government's information in its report that a Committee on Combating the Sexual Exploitation of Children and Adolescents under the Ministry of Justice implements accountability initiatives through a network. The National Department of Children's and Adolescents' Rights, which operates under the Ministry of Human Rights, also supports various awareness-raising activities in this regard with a focus on major public festivals, sport events and major development projects. Moreover, the *ViraVida* programme, sponsored by the Industrial Social Services under the National Confederation of Industry and launched in 2008, continues to provide vocational training to young victims of sexual violence above 16 years of age. Currently, over 5,000 young persons are included in the programme. The Government also indicates that, from 2015 to 2017, labour inspectors carried out 23 inspections and removed 24 adolescents from commercial sexual exploitation. While noting this information, the Committee also notes that, in its concluding observations of 2015, the Committee on the Rights of the Child (CRC) expressed its serious concern about the high and increasing numbers of children involved in prostitution or trafficking for that purpose, as well as the involvement of tourism agencies, hotels and taxi drivers in child sex tourism, particularly in areas where large development projects are

being implemented, in the north and north-east of the State party, and in connection with the 2014 World Cup and 2016 Olympic Games. The CRC also noted the short-term approach towards the problem of child prostitution, evidenced by the expulsion of child sex workers from tourist areas, their temporary placement in shelters during the Confederations Cup in 2013 and the abrupt cessation of support for these shelters after the event. There was a lack of shelters for child victims of sexual exploitation (CRC/C/BRA/CO/2-4, paragraph 41). *The Committee therefore urges the Government to continue to take the necessary measures to ensure that child victims of commercial sexual exploitation and trafficking are removed from these worst forms of child labour and rehabilitated, including the establishment of shelters to provide rehabilitation and social integration services. It also requests the Government to provide information on the results achieved in this regard. The Committee finally requests the Government to provide information on the impact of the measures taken by the relevant governmental agencies and programmes mentioned above, including the labour inspectorate, in preventing and combating the commercial sexual exploitation of children and trafficking of children for that purpose, with a focus on areas where major events or development projects have taken place.*

Clause (d). Identifying and reaching out to children at special risk. Child domestic workers. The Committee previously noted that the List of the Worst Forms of Child Labour (Decree No. 6481 of 12 June 2008) included child domestic work as one of the types of activities prohibited to any person under 18 years of age. The Committee noted from the ILO-IPEC publication entitled “Ending child labour in domestic work and protecting young workers from abusive working conditions”, 2013, that according to the 2011 Brazilian household survey, more than 250,000 children are involved in domestic work in third-party households, including 67,000 children in the 10–14 age group and 190,000 children in the 15–17 age group.

The Committee notes the Government’s information that, although it is difficult to access private households, the number of child domestic workers has decreased. According to the national household sample survey transmitted by the Government, between 2014 and 2015, the number of child domestic workers above the age of 15 fell by 2.5 per cent in Brazil. The Committee observes that the number of children engaged in domestic work which is prohibited for young persons under 18 in Brazil remains significant. *The Committee requests the Government to continue to make every effort to ensure that persons under the age of 18 years are not involved in domestic work, in conformity with Decree No. 6481 of 2008. It once again requests the Government to provide concrete information on the measures taken in this regard and on the results achieved, including the number of child domestic workers identified and those who have been removed from this type of work and rehabilitated.*

The Committee is raising other matters in a request addressed directly to the Government.

Burundi

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 30 August 2018, and also the Government’s reply, received on 22 September 2018.

Article 2(1) of the Convention. Scope of application. In its previous comments, the Committee noted the indication by the International Trade Union Confederation (ITUC) that child labour constitutes a serious problem in Burundi, particularly in agriculture and informal work in urban areas. The Committee also noted that sections 3 and 14 of the Labour Code prohibit work by young persons under 16 years of age in public and private enterprises, including agricultural undertakings, where such work is carried out on behalf of and under the supervision of an employer. The Committee further noted the Government’s indication that the question of extending the application of the labour legislation to work in the informal economy was to be the subject of tripartite discussions during the revision of the Labour Code.

The Committee notes the observations of COSYBU reminding the Government of the need to harmonize sections 3 and 14 of the Labour Code with the Convention as part of the revision of the Labour Code.

The Committee notes the Government’s indication in its report that child labour is a serious problem and that it is being combated through national and international instruments. The Government points out that a tripartite committee tasked with revising the Labour Code has been established and that one of its objectives is to extend the scope of application of the Convention to the informal economy, where there is evidence of child labour. The Committee observes that, according to the survey on domestic labour, especially child domestic labour, in Burundi carried out in 2013–14 by the Directorate-General of Labour, 5.3 per cent of children in the 7–12 age group and over 40 per cent of children in the 13–15 age group are domestic workers. The Committee also notes that the United Nations Committee on Economic, Social and Cultural Rights, in its concluding observations of October 2015, recommended that the Government take steps to effectively prevent and combat the economic exploitation of children, especially in the informal economy (E/C.12/BDI/CO/1, paragraph 38).

The Committee notes with **concern** that the informal economy is still not covered by the national labour legislation in Burundi, despite the fact that it has been raising this issue since 2005. Moreover, there is a large number of working children who are below the minimum age of 16 years for admission to employment. The Committee reminds the Government that the Convention applies to all sectors of economic activity and covers all forms of employment and work,

including in the informal economy. ***The Committee urges the Government to take the necessary steps to extend the scope of application of the Convention to work done outside a formal employment relationship, particularly in the informal economy and in agriculture. The Committee requests the Government to provide information on this matter.***

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted the adoption by the Government of a “Sectoral plan for the development of education and training 2012–20”, which recommended improvements to preschool education through support to communities and the development of occupational training through the establishment of centres for the teaching of trades. It also noted that, according to the *PASEC2014 report on the performance of the education system in Burundi*, primary education had seen a big increase in pupil numbers, rising from 740,850 in 2000 to 2,117,397 in 2014. Furthermore, Act No. 1/19 of 10 September 2013 establishing the structure of primary and secondary education had strengthened core education by increasing it from six to nine years of schooling, starting at the age of 6 years. Hence, a child who starts school at six years of age completes compulsory schooling at the age of 15 years. In this regard, the Committee asked the Government to take the necessary steps to ensure free compulsory schooling for all children up to the minimum age for admission to work, namely 16 years.

The Committee notes that COSYBU, in its observations, asks the Government to fix the minimum age for the completion of compulsory schooling, so as to enable the progressive abolition of child labour.

The Committee notes the Government’s indications that a policy of free schooling was established in 2005, schools and school canteens have been set up, and committees based in all *collines* (administrative subdivisions) in the country are active in getting children to attend school. Furthermore, official school fees in primary education have been abolished and the poorest pupils are exempt from secondary school fees. School kits have been distributed to primary school pupils in some provinces. The Committee notes that the implementation report for the “Support programme for the consolidation of basic education 2016–17” indicates that 45 classrooms have been built, 2.6 million pupils have received school kits through the “Back to school” campaign, and awareness-raising projects against dropping out of school are under way in target areas. Teacher training modules have been created and 36,000 kits for teachers have been distributed. The Committee also notes that a campaign for the collection of data on education for 2016–17 was launched in January 2017. The Committee notes the significant efforts of the Government to improve access to, and the quality of, the education system in the country. According to the abovementioned implementation report, the parity index for 2015–16 for primary education was 1.01.

The Committee notes that the Government does not provide any information on the measures taken to increase the age of completion of compulsory schooling to 16 years so that it coincides with the minimum age for access to employment or work. The Committee recalls that education should be compulsory and effectively ensured up to an age at least equal to that specified for admission to employment, in accordance with *Article 2(3)* of the Convention, so as to protect children against economic exploitation. ***The Committee requests the Government to take the necessary steps without delay to ensure that schooling is compulsory up to the minimum age for admission to employment, namely 16 years. It also requests the Government to continue its efforts to improve access to, and the quality of, the education system in the country for children under 16 years of age and to provide information and statistical data on the progress made in this respect.***

Article 9(1). Penalties. The Committee previously noted that there were shortcomings in the penalties established by the Labour Code and Ordinance No. 630/1 of 5 January 1981 concerning child labour in terms of ensuring the effective application of the provisions of the Convention. It also noted the Government’s indication that a Code of Rights and Duties of the Child (Children’s Code) containing provisions on child labour and applicable penalties had been drawn up by the Ministry of Solidarity and Human and Gender Rights and had then been forwarded to the Ministry of Justice for consideration.

The Committee notes that COSYBU, in its observations, recommends that the Government should adopt the Children’s Code.

The Committee notes the Government’s indication that the Children’s Code is being drawn up by the Ministry of Solidarity and Human and Gender Rights, and by the Ministry of Justice. It also notes the Government’s indication that the draft Children’s Code has been in preparation since 2002. The Committee observes that the Committee on Economic, Social and Cultural Rights, in its concluding observations of October 2015, recommended that the Government should ensure that individuals who exploit children are duly punished (E/C.12/BDI/CO/1, paragraph 38). ***The Committee urges the Government to take the necessary steps as soon as possible to ensure that appropriate and effective penalties are applicable to violations of the provisions on child labour. It requests the Government to provide information on progress achieved regarding the adoption of the draft Children’s Code and to provide a copy when it has been adopted.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour. Sale and trafficking of children. The Committee previously noted the adoption of Act No. 1/28 of 29 October 2014 concerning the prevention and suppression of trafficking in persons and the protection of victims (Anti-Trafficking Act), which establishes penalties of 15–20 years’ imprisonment for the trafficking of children. It noted that, according to the March 2017 UNICEF report on the humanitarian situation in Burundi, the Anti-Trafficking Act was not being fully or effectively applied in practice.

The Committee notes the Government's indications in its report that in 2017 women and children were victims of trafficking to Oman, Saudi Arabia and Kuwait. The Government states that the statistics of the National Observatory for Combating Organized Crime indicate a total of 312 girls who were transported to Oman and Saudi Arabia. The Government indicates that difficulties relating to the collection of up-to-date statistics on child victims of trafficking include a lack of regular exchanges of information with civil society organizations in Burundi. Offences recorded cover trafficking for economic and sexual exploitation. The Government indicates that, under section 10 of the Anti-Trafficking Act, the crime of trafficking incurs the penalty of five to ten years' penal servitude and a fine of 100,000–500,000 Burundian francs (approximately US\$55–280). However, even though a number of convictions for trafficking of children have been handed down, the Government points out that some cases escape the control of the law.

The Committee notes that the Chairperson of the Independent National Human Rights Commission (CNIDH), in a statement of 9 February 2018 on the human rights situation, expressed concern at the resurgence of human trafficking, particularly in the provinces of Makamba and Bujumbura Mairie, and asked the Government to ensure the effective application of the 2014 Anti-Trafficking Act. The Committee also notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of November 2016, expressed concern at the lack of a coordinated and effective response to address the increasing number of girls being trafficked out of the country for purposes of domestic servitude and sexual slavery. The CEDAW recommended that the Government allocate sufficient human, technical and financial resources to implement the 2014 Anti-Trafficking Act (CEDAW/C/BDI/CO/5-6, paragraph 28). ***The Committee requests the Government to intensify its efforts to ensure the thorough investigation and effective prosecution of individuals who engage in the sale and trafficking of children and to ensure that penalties constituting an effective deterrent are applied in practice. The Committee once again requests the Government to provide information on the application in practice of Act No. 1/28 of 29 October 2014 concerning the prevention and suppression of trafficking in persons and the protection of victims (Anti-Trafficking Act), including statistical information on the number and nature of violations, investigations, prosecutions, convictions and criminal penalties imposed on perpetrators. This information should, as far as possible, be disaggregated by age and gender of the victims.***

Article 3(b) of the Convention. Use, procuring or offering of children for prostitution. In its previous comments, the Committee noted that, according to the observations of the Trade Union Confederation of Burundi (COSYBU) and the 2010 conclusions of the Conference Committee on the Application of Standards, the use, procuring or offering of children for prostitution remains a problem in practice, even though the national legislation prohibits this worst form of child labour. It also noted the measures taken by the Government to prevent the engagement of children in prostitution, including: (i) the establishment of a police unit for the protection of minors and morals; and (ii) free primary school education and the setting up of school canteens. The Committee expressed its concern at the results of the 2012 rapid assessment study on the commercial sexual exploitation of children, sponsored by the Ministry of the Public Service, Labour and Employment, in collaboration with UNICEF, which noted that children in fishing areas, particularly Rumonge and Makamba, were handed over to prostitution by adults, and that sex tourism targeting children was on the increase in border areas.

The Committee notes the Government's indications that the revised Penal Code of 2009 has enabled the Government to take immediate and effective steps as a matter of urgency to ensure that individuals who use, procure or offer children for prostitution are prosecuted and incur effective penalties. ***The Committee requests the Government to provide information on the measures taken to ensure that persons who use, procure or offer a child under 18 years of age for prostitution are prosecuted and that penalties constituting an effective deterrent are applied in practice. It also requests the Government to provide information on the number and nature of violations reported and criminal penalties imposed.***

Article 7(2). Effective and time-bound measures. Clause (b). Removing children from the worst forms of child labour and providing for their rehabilitation and social integration. Commercial sexual exploitation. The Committee previously noted with deep concern that, according to the 2012 study of commercial sexual exploitation in Burundi, children from all target categories (children in prison, street children, child domestic workers, schoolchildren, displaced or refugee children) were victims of commercial sexual exploitation. Moreover, orphaned girls or girls separated from their families who had come to the major cities for employment as domestic workers were particularly at risk of being actual or potential victims of commercial sexual exploitation. According to the abovementioned study, 30 per cent of persons interviewed said they had been victims of such exploitation and 70 per cent said they had witnessed it. The perpetrators were mainly persons offering financial or material reward, particularly shopkeepers, mine operators, foreigners in transit and soldiers.

The Committee notes the Government's indications that a number of measures have been put in place to ensure the identification, protection and guidance of child victims of commercial sexual exploitation, including: (i) the adoption of Act No. 1/13 of 22 September 2016 concerning the prevention and suppression of gender-based sexual violence and the protection of victims, together with a national strategy for combating gender-based violence; (ii) the implementation of a national child protection policy; (iii) the drawing up of a Child Protection Code, which is due to be adopted soon; and (iv) the establishment of a police unit for the protection of minors and morals. The Committee observes that, under section 35 of Act No. 1/13, any person found guilty of sexual exploitation of a minor shall be liable to penal servitude of 15–30

years. *Duly noting the measures taken by the Government relating to the sexual exploitation of children, the Committee encourages the Government to continue its efforts to identify and protect child victims of commercial sexual exploitation. The Committee also requests the Government to provide information on the measures taken to ensure that victims of commercial sexual exploitation are directed to and cared for by the appropriate services to ensure their rehabilitation and social integration. The Committee also requests the Government to provide a copy of the Child Protection Code, once adopted.*

The Committee is raising other matters in a request addressed directly to the Government.

Cabo Verde

Minimum Age Convention, 1973 (No. 138) (ratification: 2011)

Article 3(1) and 3(2) of the Convention. Minimum age for admission to, and determination of, hazardous work. The Committee previously noted that a regulatory instrument incorporating the list of hazardous types of work prohibited to children and young persons would be adopted shortly.

The Committee notes the Government's information that the national list of hazardous forms of child labour was adopted by Act No. 113/VIII/2016 on 10 March 2016. The list enumerates hazardous types of work prohibited for children in different industries (agriculture, fishery, mining, manufacturing and construction), including work with chemical products or other dangerous substances, work involving transport of heavy loads, work exposing children to temperature, dusts or other unhealthy environments, work involving intense physical efforts, work for long hours or work on ships or vessels in general, among others. However, the Committee notes with *regret* that, according to sections 2 and 5(1) of the Act, the list only applies to children under 16 years of age. The Committee reminds the Government that, by virtue of *Article 3(1)* of the Convention, the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or moral of young persons shall not be less than 18 years. The Committee emphasizes that the authorization to undertake hazardous work from the age of 16 years is a limited exception to the general rule on the prohibition of young persons under 18 years performing hazardous work, and that it does not constitute an unqualified authorization to engage in hazardous work as from the age of 16 years (see 2012 General Survey on the fundamental Conventions, paragraph 379). *The Committee therefore requests the Government to take the necessary measures to ensure that no children under 18 years of age, other than in the exceptional cases allowed by the Convention, shall be authorized to engage in hazardous work, in accordance with Article 3(1).*

The Committee is raising other matters in a request directly addressed to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Article 3(b) of the Convention. Worst forms of child labour. Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances. The Committee previously noted that the Penal Code established penalties for encouraging or facilitating the prostitution of children under 16 years of age (section 148) and the use of a child under 14 years of age in pornographic performances (section 150). The Committee requested the Government to take the necessary measures to bring its legislation into conformity with *Article 3(b)* of the Convention in order to ensure that the use, procuring or offering of children for prostitution, for the production of pornography or for pornographic performances is prohibited for young persons under 18 years of age.

The Committee notes the Government's information in its report that the Penal Code was amended by Legislative Decree No. 4/2015 of 11 November 2015. The Committee notes with *satisfaction* that the use of minors under 18 years of age for purposes of prostitution is criminalized and punishable by imprisonment of two to 12 years pursuant to section 145A. Sections 148 and 150 are also amended and supplemented by subsections criminalizing the offences related to encouraging or facilitating the prostitution of children aged 16–18 and the use of minors aged 14–18 in pornography production and pornographic performances. Additionally, section 149 criminalizes the offences related to encouraging or facilitating sexual exploitation or prostitution of children under 18 years in a foreign country and provides for aggravated sanctions. *The Committee requests the Government to provide information on the application of sections 145A, 148, 149 and 150 of the Penal Code in practice, including the number of investigations, prosecutions and convictions, as well as sanctions imposed with regard to the use, procuring or offering of a child under 18 years of age for prostitution, for the production of pornography or for pornographic performances.*

The Committee is raising other matters in a request addressed directly to the Government

Chad

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. Forced recruitment of children for use in armed conflict. In its previous comments, the Committee noted that, according to the report of the United Nations

Secretary-General on children and armed conflict of 15 May 2013 (A/67/845-S/2013/245, paragraphs 45 and 46), despite progress in the implementation of the action plan signed between the Government and the United Nations in June 2011 concerning children associated with the armed forces and armed groups in Chad, and although the national army of Chad did not recruit children as a matter of policy, the country task force verified 34 cases of recruitment of children by the army during the reporting period. The 34 children appeared to have been enlisted in the context of a recruitment drive in February–March 2012, during which the army gained 8,000 new recruits. In this respect, the Committee noted the new roadmap of May 2013, adopted further to the review of the implementation of the action plan concerning children associated with the armed forces and armed groups in Chad and aimed at achieving full observance of the 2011 action plan by the Government of Chad and the United Nations task force. The Committee observed that, in the context of the roadmap, one of the priorities was to speed up the adoption of the preliminary draft of the Child Protection Code, which prohibits the recruitment and use of young persons under 18 years of age in the national security forces and lays down penalties to that effect. Moreover, during 2013 it was planned to establish transparent, effective and accessible complaint procedures regarding cases of recruitment and use of children, and also to adopt measures for the immediate and independent investigation of all credible allegations of recruitment or use of children, for the persecution of perpetrators and for the imposition of appropriate disciplinary sanctions.

The Committee takes note of the information contained in the United Nations Secretary-General's report of 15 May 2014 to the Security Council on children and armed conflict (A/68/878-S/2014/339). According to this report, the deployment of Chadian troops to the African-led International Support Mission in Mali (AFISMA) has prompted renewed momentum to accelerate the implementation of the action plan signed in June 2011 to end and prevent underage recruitment in the Chadian National Army, and the Chadian authorities have renewed their commitment to engage constructively with the United Nations to expedite the implementation of the action plan. The Government of Chad, in cooperation with the United Nations and other partners, has therefore taken significant steps to fulfil its obligations. For example, a presidential directive was adopted in October 2013 to confirm 18 years as the minimum age for recruitment into the armed and security forces. This directive also establishes age verification procedures and provides for penal and disciplinary sanctions to be taken against those violating the orders. The directive was disseminated among the commanders of all defence and security zones, including in the context of several training and verification missions. Furthermore, on 4 February 2014, a presidential decree explicitly criminalized the recruitment and use of children in armed conflict.

The Secretary-General states, however, that while the efforts made by the Government to meet all obligations under the action plan have resulted in significant progress, a number of challenges remain to ensure sustainability and the effective prevention of violations against children. Chad should pursue comprehensive and thorough screening and training of its armed and security forces to continue to prevent the presence of children, including in the light of Chad's growing involvement in peacekeeping operations. While no new cases of recruitment of children were documented by the United Nations in 2013 and no children were found during the joint screening exercises carried out with the Chadian authorities, interviews confirmed that soldiers had been integrated in the past into the Chadian National Army from armed groups while still under the age of 18. According to the Secretary-General, the strengthening of operating procedures, such as those for age verification, which ensure the accountability of perpetrators, should remain a priority for the Chadian authorities. Finally, the Secretary-General invited the National Assembly to proceed as soon as possible with the examination and adoption of the Child Protection Code, which should provide greater protection for the children of Chad. ***The Committee therefore requests the Government to intensify its efforts to end, in practice, the forced recruitment of children under 18 years of age by the armed forces and armed groups and to undertake immediately the full demobilization of all children. The Committee urges the Government to take immediate measures to ensure that the perpetrators are investigated and prosecuted and that sufficiently effective and dissuasive penalties are imposed on persons found guilty of recruiting and using children under 18 years of age in armed conflict. Finally, the Committee urges the Government to take the necessary measures to ensure the adoption of the Child Protection Code as soon as possible.***

Article 7(2). Effective and time-bound measures. Clauses (b) and (c). Preventing children from being engaged in the worst forms of child labour, removing children from these forms of labour and ensuring their rehabilitation and social integration. Children who have been enlisted and used in armed conflict. In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General on children and armed conflict of 15 May 2013 (A/67/845-S/2013/245, paragraph 49), the actions taken by the Government for the release, temporary care and reunification of separated children, while encouraging, were not yet in line with the commitments made in the action plan signed between the Government and the United Nations in June 2011 concerning children associated with the armed forces and armed groups in Chad. The Committee noted that one of the priorities referred to in the 2013 roadmap was to secure the release of children and support their reintegration.

The Committee notes that, according to the Secretary-General's report of 15 May 2014, a central child protection unit has been established in the Ministry of Defence, as well as in each of the eight defence and security zones, to coordinate the monitoring and protection of children's rights and to implement awareness-raising activities. Between August and October 2013, the Government and the United Nations jointly conducted screening and age verification of approximately 3,800 troops of the Chadian national army in all eight zones. The age verification standards had been previously developed during a workshop organized by the United Nations in July. In addition, between August and September 2013, a training-of-trainers programme on child protection was attended by 346 members of the Chadian National Army. As from July 2013, troops of the Chadian National Army deployed in Mali started to receive pre-deployment training on child protection and international humanitarian law; in December of the same year, 864 troops attended child protection training at the Loumia training centre. ***The Committee encourages the Government to intensify its efforts and continue its collaboration with the United Nations in order to prevent the enrolment of children in armed groups and improve the situation of child victims of forced recruitment for use in armed conflict. In addition, the Committee requests the Government once again to supply information on measures taken to ensure that child soldiers removed from the armed forces and groups receive adequate assistance for their rehabilitation and social integration, including reintegration into the school system or vocational training, wherever appropriate. It requests the Government to supply information on the results achieved in its next report.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Congo

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2008.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Sale and trafficking of children. In its previous comments, the Committee noted the Government's statement that there is child trafficking between Benin and the Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work. According to the Government, the children are forced to work all day in harsh conditions by their host families, and are subjected to all kinds of hardships. The Committee noted that sections 345, 354 and 356 of the Penal Code lay down penalties for anyone found guilty of the forcible or fraudulent abduction of persons including young persons under 18 years of age. It requested the Government to indicate to what extent sections 345, 354 and 356 of the Penal Code have been implemented in practice. ***The Committee requests the Government once again to supply information on the application of sections 345, 354 and 356 of the Penal Code in practice, including, in particular, statistics on the number and nature of offences reported, investigations, prosecutions, convictions and penalties imposed.***

Article 7(2). Effective and time-bound measures. Clause (b). Removal of children from the worst forms of child labour and ensuring their rehabilitation and social integration. Sale and trafficking of children. In its previous observations, the Committee noted the Government's statement acknowledging that the trafficking of children between Benin and Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work is contrary to human rights. It also noted that the Government has taken certain measures to curb child trafficking, including: (a) the repatriation by the Consulate of Benin of children who have either been picked up by the national police or removed from families; and (b) the requirement at borders (airport) for minors (young person under 18 years of age) to have administrative authorization to leave the territory of Benin. The Committee asked the Government to provide information on the impact of the measures taken with regard to the rehabilitation and social integration of children following their withdrawal from labour. It noted that the Government's report does not contain any information on this subject. ***The Committee requests the Government once again to supply information on the time-bound measures taken to remove young persons under 18 years of age from this worst form of child labour and to ensure their rehabilitation and social integration. It also requests the Government to supply information on the impact of these measures.***

Application of the Convention in practice. The Committee noted that, according to the concluding observations of the Committee on the Rights of the Child on the initial report of Congo of October 2006 (CRC/C/COG/CO/1, paragraph 85), a study of the root causes and repercussions of trafficking is due to be conducted in the country. ***The Committee requests the Government to supply information on the results of this study and to supply a copy of it once it has been prepared.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Côte d'Ivoire

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted that, according to the report of the International Trade Union Confederation (ITUC) for the World Trade Organization General Council Review of the Trade Policies of Côte d'Ivoire, Guinea-Bissau and Togo (2012), around 40 per cent of children between the ages of 5 and 14 years are engaged in work and nearly one quarter of children in Côte d'Ivoire combine work and school. Children in rural areas mainly work on family farms, in plantations, in small-scale gold mines, in commerce or in domestic service. The Committee also noted the adoption of the National Plan of Action to Combat the Trafficking and Exploitation of Children and Child Labour 2012–14 (NPA).

The Committee notes the Government's reference in its report to the National Plan of Action to Combat the Worst Forms of Child Labour 2015–17 (PAN-PFTE 2015–17). The Committee notes that the PAN-PFTE 2015–17 refers to the most recent study on child labour in Côte d'Ivoire (ENSETTE 2014). According to the study, over one-in-four children aged between 5 and 17 years is economically active, for an average of 35 hours of work, with an additional 12 hours a week of household work. Of these children, 1,424,996 are engaged in types of work that are to be abolished, or one-in-five children between the ages of 5 and 17 years (20.1 per cent), with a total of 1,082,929 children aged 5–13 years. Of these children, 539,177 are subject to hazardous types of work. The hazards are related mainly to the total working time (77 per cent), with 22 per cent of these children working at night, 18.9 per cent in hazardous occupations and 3.6 per cent in a hazardous branch of activity. Girls are most affected, both in urban and rural areas, and are principally engaged in a family context (66.5 per cent of these children are family helpers and 9 per cent are waged). According to the study, child labour is concentrated primarily in agriculture (49.1 per cent), followed by services (38.5 per cent) and finally industry (12.4 per cent). The Committee notes with *concern* that a high number of children are engaged in work under the minimum age for admission to work of 14 years, including under hazardous conditions. ***The Committee requests the Government to intensify its efforts and to take the necessary measures for the progressive elimination of child labour, particularly in rural areas. It requests the Government to provide information on the results achieved in terms of the elimination of child labour within the framework of the National Plan of Action to Combat the Worst Forms of Child Labour 2015–17. Finally, the Committee requests the Government to continue providing information on the application of the Convention in practice, including statistical data on the nature, scope and trends of work by children and young persons under the minimum age specified by the Government when it ratified the Convention, and extracts from the reports of the inspection services.***

Article 2(3). Age of completion of compulsory schooling. In its previous comments, the Committee noted that, according to the ITUC's report, education is neither compulsory nor free in Côte d'Ivoire. It also noted that, according to the Government, a bill is being drawn up to make schooling compulsory until the age of 16 years.

The Committee notes the absence of information on this point in the Government's report. However, it notes that, according to the most recent analysis of the "situation of children in Côte d'Ivoire" (SITAN, 2014), nearly 1.7 million children of the age to be in primary school or the first cycle of secondary education do not attend school. Moreover, the greatest number of children aged 6–11 years outside the school system are concentrated in the northern, north-western and south-western regions, where at least 40 per cent of children of that age do not attend primary or secondary school. The Committee also notes that the PAN-PFTE 2015–17 envisages as a prevention measure the strengthening of the legislative framework to combat the worst forms of child labour through the adoption of a law on compulsory schooling for all children between the ages of 6 and 16 years. The Committee recalls once again that compulsory schooling is one of the most effective means of combating child labour and that it is necessary to link the age of admission to employment and the age at which compulsory schooling ends. ***In this regard, the Committee requests the Government to take immediate measures to ensure that the legislation introducing compulsory schooling for children between the ages of 6 and 16 years is adopted as soon as possible and to provide a copy with its next report. It requests the Government to intensify its efforts to combat child labour by strengthening the measures intended to increase attendance at both primary and secondary school.***

Articles 6 and 7. Apprenticeship and light work. In its previous comments, the Committee noted that, under the terms of section 23(8) of the Labour Code, children may not be employed in an enterprise, even as apprentices, under the age of 14 years, unless an exemption is provided for by regulation. In contrast, it noted that, under section 3 of Decree No. 96-204 of 7 March 1996 on night work, children under 14 years of age engaged in an apprenticeship or pre-vocational training may not under any circumstances be engaged in work during the period defined as night work or, more generally, during the period of 15 consecutive hours between 5 p.m. and 8 a.m. The Committee requested the Government to take the necessary measures to bring the Labour Code and Decree No. 96-204 of 7 March 1996 into conformity with the Convention and to set the minimum age for entry into apprenticeship at 14 years, for example in the context of the revision of the Labour Code. The Committee notes with *satisfaction* that section 23(2) of the new Labour Code (Act No. 2015-532 of 2015) establishes the age of entry into apprenticeship at 14 years. The Committee also notes that, with regard to bringing section 3 of Decree No. 96-204 of 7 March 1996 on night work into conformity with *Article 6* of the Convention, the Government indicates that a draft text to revise the Decree is currently under preparation for this purpose. The Committee also notes the adoption in June 2017 of Order No. 2017-016 setting out the list of light work authorized for children between the ages of 13 and 16 years. ***The Committee hopes that, in the context of the revision of Decree No. 96-204 of 7 March 1996 on night work, the Government will take the necessary measures to bring it into conformity with the Convention and will accordingly set the minimum age for entry into apprenticeship at 14 years. The Committee requests the Government to provide information in this regard.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Articles 3(d) and 7(2)(a) and (b) of the Convention. Hazardous work, preventing children from being engaged in and removing them from the worst forms of child labour. Children in agriculture. In its previous comments, the Committee noted that the latest statistics on child labour from 2008 revealed that 1,570,103 children were economically active in the agricultural sector, frequently in cocoa plantations. It also noted that the exploitation of child labour had been noted in mining sites under concession to private individuals, even though child labour in mines is on the list of hazardous types of work prohibited for children under 18 years of age (Order No. 2250 of 14 March 2005, as revised in 2012).

The Committee notes the Government's indication in its report that the National Plan of Action to Combat the Worst Forms of Child Labour 2015–17 (PAN-PFTE 2015–17) is a multisectoral plan. The Committee notes the statistical data provided by the Government on child labour by sector and gender compiled by the national child labour observation and monitoring system in Côte d'Ivoire (SOSTECI) in 2016. It notes that, according to these statistics, a total of 1,559 children under 18 years of age are engaged in hazardous types of work, including in the agricultural sector, in which the number of children is 1,148, of whom 748 are boys and 400 are girls. However, the Committee notes that the PAN-PFTE 2015–17, which refers to the report on the situation of child labour in Côte d'Ivoire (SITAN 2014) indicates that the number of children subject to hazardous types of work in the agricultural sector is 189,427, with a total of 105,699 children between the ages of 14 and 17 years. Furthermore, in the context of the implementation of the PAN-PFTE 2015–17, the Committee notes the adoption in June 2017 of Order No. 2017-017 determining the list of hazardous types of work prohibited for children under 18 years of age in several agricultural branches. ***Concerned at the high number of children engaged in hazardous types of work in agriculture, the Committee urges the Government to intensify its efforts to prevent children under 18 years of age from being engaged in hazardous types of work, particularly in agriculture. In this regard, the Committee requests the Government to take the necessary measures to ensure the effective enforcement of Order No. 2017-017 on the list of hazardous types of work. Finally, the Committee requests the Government to indicate the measures taken to ensure that child victims of hazardous types of work are removed from such work and rehabilitated, particularly by ensuring their access to free basic education and vocational training.***

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Child HIV/AIDS orphans. In its previous comments, the Committee noted that the number of orphans and vulnerable children (OVCs)

due to HIV/AIDS in the country was 380,000 and that in this context the Government had developed the National Programme for the Care of Orphans and Other Vulnerable Children due to HIV/AIDS (PNOEV), especially to ensure the access of OVCs to free basic education.

The Committee notes that the Government has not provided any information on this subject in its report. It notes that the 2016 estimates published by UNAIDS give the figure of 320,000 OVCs due to HIV/AIDS in the country and that the Government, with the support of UNAIDS, has established a National HIV/AIDS Strategic Plan 2016–20 covering care and support for OVCs and their families. **Recalling that children who have been orphaned as a result of HIV/AIDS and other OVCs are at particular risk of being engaged in the worst forms of child labour, the Committee urges the Government to intensify its efforts, within the context of the National HIV/AIDS Strategic Plan 2016–20, to ensure that these children are protected from the worst forms of child labour. It requests the Government to provide information on the effective and time-bound measures taken in this regard and the results achieved.**

The Committee is raising other matters in a request addressed directly to the Government.

Djibouti

Minimum Age Convention, 1973 (No. 138) (ratification: 2005)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Article 1 of the Convention. National policy to ensure the effective abolition of child labour; application of the Convention in practice. In its previous comments, the Committee noted the Decent Work Country Programme (DWCP) 2008–12 for Djibouti, which prioritized, inter alia, the improvement of conditions of work by promoting national and international labour standards, with a particular focus on child labour. The Committee also noted the adoption of the National Strategic Plan for Children in Djibouti (PSNED) for the 2011–2015 period, with the goal of establishing a protective environment conducive to the observance of the fundamental rights of children. The Committee asked the Government to provide information on the implementation of the DWCP and the PSNED and on the results achieved regarding the progressive elimination of child labour. It also asked the Government to provide information on progress made in framing a national policy to combat child labour.

The Committee notes that, according to UNICEF, for the 2002–12 period, 7.7 per cent of children between five and 14 years of age in Djibouti were engaged in activities deemed to be work. The Committee notes the Government's indication in its report that it is not in a position to communicate the results achieved through the PSNED since the studies conducted are still in draft form. The Government also indicates that the DWCP could not be adopted owing to a lack of agreement with the trade unions and it hopes for a resumption of social dialogue, with ILO assistance, with a view to adoption and implementation of the DWCP in the near future. The Committee also notes the "Djibouti Compendium of Statistics" attached to the Government's report and the Government's statement that the Directorate of Statistics and Demographic Studies (DISED) has not undertaken any survey in relation to child labour. **The Committee firmly hopes for a resumption of social dialogue without delay and requests that the Government take the necessary steps to ensure the effective implementation of the DWCP and the PSNED. It requests that the Government provide information on the results achieved regarding the progressive elimination of child labour and on progress made in framing a national policy to combat child labour. Lastly, the Committee again requests that the Government take the necessary measures to ensure that studies on the extent and nature of child labour in Djibouti are conducted in the near future, and that the results are then communicated to the Office.**

Article 2(1). Scope of application and labour inspection. The Committee previously noted that, by virtue of section 1 of Act No. 133/AN/05/5ème issuing the Labour Code (hereinafter: Labour Code), the Labour Code applies only to employment relationships. It also noted the Government's indication that the provision on the minimum age for access to work is observed in the formal sector but is not applied effectively in the informal economy. The Committee further noted that, despite new Act No. 199/AN/13/6ème, supplementing Act No. 212/AN/07/5ème establishing the National Social Security Fund, which extends health-care benefits to all self-employed workers in the informal economy, the Government recognized that the lack of structure in the informal economy prevented the identification of issues faced by young workers in the sector.

The Committee notes the Government's indication that it hopes to submit the question of informal work to the National Labour Council, with a particular focus on the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The Committee recalls that the Convention applies to all branches of economic activity, whether formal or informal, and that it covers all types of employment or work, whether or not it is effected on the basis of a dependent employment relationship, and whether or not it is remunerated. **The Committee therefore requests that the Government take steps to ensure that the protection afforded by the Convention is secured to children under 16 years of age working in the informal economy, particularly by adapting and strengthening the labour inspectorate in order to improve labour inspectors' capacity to identify cases of child labour. It requests that the Government provide information on this matter and also to communicate the results achieved.**

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted that, according to section 4 of Act No. 96/AN/00/4ème setting out the policy for Djibouti's education system, the State guarantees education for children from the age of six to 16 years. The Committee also noted that, in 2006, the net primary school enrolment rate was 66.2 per cent and at secondary level the rate was 41 per cent.

The Committee notes that, despite the improvements in school attendance, Djibouti still has a low school enrolment rate and that the goal, established in the PSNED, of achieving a 100 per cent enrolment rate for children in the 6–10 age group by 2015 was not achieved. Indeed, in 2014, according to the UNESCO Institute of Statistics, the attendance rate was 67.39 per cent in primary education and 46.35 per cent in secondary education. **Recalling that compulsory education is one of the most effective means of combating child labour, the Committee requests that the Government intensify its efforts and take measures that will ensure children's participation in compulsory basic schooling, or in an equivalent setting. It requests that the Government provide information on the recent measures taken to increase the school attendance rate, at both primary and secondary levels, so as to prevent children under 16 years of age from working. It further requests that the Government provide recent statistics on the primary and secondary school enrolment rates in Djibouti.**

Article 3(1). Age of admission to hazardous work. The Committee previously noted that, according to section 112 of the Labour Code, at the request of a labour inspector, women or young persons between 16 and 18 years of age may not be placed in employment recognized as being beyond their strength by an approved doctor. However, the Committee observed that the national legislation does not appear expressly to establish, as *Article 3(1)* of the Convention requires, a minimum age of 18 years for any type of employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons. ***Noting once again the lack of information on this matter in the Government's report, the Committee again requests that the Government take the necessary measures to ensure that no person under 18 years of age is authorized to engage in hazardous work, in accordance with Article 3(1). It requests that the Government provide information on the progress made in this regard.***

Article 3(2). Determination of hazardous types of work. The Committee recalls that, according to section 110 of the Labour Code, the employment of young persons in domestic work, hotels and bars is strictly prohibited, with the exception of employment strictly in the area of catering. Furthermore, under section 111 of the Labour Code, an order adopted on the proposal of the Minister of Labour and the Minister of Health, after consultation with the National Council for Labour, Employment and Social Security (CONTESS), shall determine the nature of the work and the categories of enterprise prohibited for all women, pregnant women and young people, and the applicable minimum age. The Committee previously asked the Government to adopt such an order on jobs and enterprises prohibited for young people.

The Committee again notes the Government's indication that the order in question has been drawn up and that it has pledged to refer the adoption thereof to CONTESS. It also indicates that no controls have been undertaken to date by the labour inspectorate on hazardous types of work performed by young people. ***The Committee again requests that the Government take the necessary steps as a matter of urgency to ensure that the order determining the nature of the work and the categories of enterprise prohibited for young people under 18 years of age is adopted under section 111 of the Labour Code in the near future.***

Noting the interest expressed by the Government in obtaining technical assistance from the Office, the Committee invites the Government to avail itself of ILO technical assistance in order to facilitate the application of the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Articles 3(b) and 7(2) of the Convention. Use, procuring or offering of a child for prostitution or illicit activities; effective and time-bound measures. Clause (b). Assistance for removing children from the worst forms of child labour. The Committee previously noted that the Committee on the Rights of the Child (CRC) once again expressed its concern at the high number of children, particularly girls, involved in prostitution and at the lack of facilities providing services for sexually exploited children.

The Committee notes the Government's indication that it does not have up-to-date information on this matter. ***The Committee urges the Government to take effective and time-bound measures to remove children from prostitution, and to ensure their rehabilitation and social integration. It also requests the Government to supply information on the progress achieved in this respect.***

Articles 3(d) and 4(1). Hazardous work and determination of these types of work. As regards the prohibition on employing children under 18 years of age in work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children, as prescribed by Article 3(d) of the Convention, and also the adoption of a list of hazardous types of work, the Committee refers to its detailed comments relating to the Minimum Age Convention, 1973 (No. 138).

Article 6. Programmes of action to eliminate the worst forms of child labour. The Committee previously noted that in the context of activities carried out under the Decent Work Country Programme (DWCP) for Djibouti for 2008–12, which prioritized, inter alia, the improvement of conditions of work through the promotion of national and international labour standards, with a particular focus on child labour, one of the objectives was that the ILO constituents and the social partners should work together to prevent and eliminate the worst forms of child labour. In this regard, it was planned to formulate and implement a national plan of action for the elimination of the worst forms of child labour.

The Committee notes the Government's indication that the DWCP has not been adopted owing to a lack of agreement between the Government and the trade unions but that it hopes that, with the help of the Office, social dialogue can resume and that the national plan of action for the elimination of the worst forms of child labour will be adopted and implemented. ***The Committee firmly hopes that social dialogue will resume as soon as possible. It again requests the Government to take immediate and effective measures to ensure that the national plan of action for the elimination of the worst forms of child labour is formulated, adopted and implemented as soon as possible and to provide information on the progress made in this respect.***

Article 7(2)(d). Identifying children at special risk. 1. HIV/AIDS orphans. In its previous comments, the Committee noted that despite the measures taken by the Government in favour of orphans and vulnerable children (OVCs), the number of HIV/AIDS orphans had increased (to 8,800 in 2011).

The Committee notes that the Government does not supply any information on the measures taken to prevent the engagement of HIV/AIDS orphans in the worst forms of child labour. However, the Committee notes that according to the UNICEF publication *The state of the world's children 2016: A fair chance for every child*, a total of 6,000 children were orphaned as a result of HIV/AIDS in 2014. It also notes that the Ministry of Health has drawn up a National Health Development Plan (2013–17), which indicates that in the context of the Horn of Africa Partnership (HOAP) to address HIV vulnerability and cross-border mobility, the Government renewed its commitment to intensifying and strengthening inter-ministerial collaboration at the national and subregional levels in order to stop the spread of HIV/AIDS and reverse the current trend of this scourge. ***Recalling that HIV/AIDS orphans are at greater risk of involvement in the worst forms of child labour, the Committee again requests the Government to supply information on the impact of measures, policies and plans aimed at preventing the engagement of HIV/AIDS orphans in the worst forms of child labour, and on the results achieved.***

2. *Street children.* The Committee previously noted the Government's statement that most of the children living and working on the streets were of foreign origin and often worked as beggars or shoeshine boys or girls. It also noted that the CRC continued to express concern at the very high number of children still on the streets and at the continued exposure of these children to prostitution, sexually transmissible infections, including HIV/AIDS, economic and sexual exploitation, and violence.

The Committee notes that the Government does not provide any information in this respect. However, it notes that a paper entitled *Humanitarian action for children*, published by UNICEF in 2016, indicates that 200 street children received social assistance through the humanitarian action of UNICEF, with the collaboration of the Government. ***Recalling that street children are particularly exposed to the worst forms of child labour, the Committee again urges the Government to take immediate and effective measures to protect them from the worst forms of child labour and ensure their rehabilitation and social reintegration, and also to provide information on progress made in this respect.***

Application of the Convention in practice. The Committee previously noted that the CRC observed that there were gaps in the surveys that had been carried out in the areas of poverty, education and health, and that there was insufficient capacity to centralize and analyse population data. The Committee notes the Government's wish to obtain technical assistance from the Office with regard to drawing up statistics. ***The Committee requests the Government once again to take steps to ensure the availability of statistics on the nature, extent and trends of the worst forms of child labour, disaggregated by age and gender, and on the number of children covered by the measures giving effect to the Convention.***

Noting the interest expressed by the Government in obtaining technical assistance, the Committee invites the Government to avail itself of technical assistance from the Office in order to facilitate the implementation of the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Dominica

Minimum Age Convention, 1973 (No. 138) (ratification: 1983)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2011.

Article 2(2) of the Convention. Raising the initially specified age for admission to employment or work. Noting that the Government initially specified a minimum age of 15 years upon ratification, the Committee observes that the Education Act of 1997 provides for a minimum age for admission to work of 16 years of age. ***In this regard, the Committee takes the opportunity to draw the Government's attention to the provisions of Article 2(2) of the Convention which provides that any Member having ratified this Convention may subsequently notify the Director-General of the International Labour Office, by a new declaration, that it has raised the minimum age that it had previously specified. This allows the age fixed by the national legislation to be harmonized with that provided for at the international level. The Committee would be grateful if the Government would consider sending a declaration of this nature to the Office.***

Article 3(1). Minimum age for admission to hazardous work. The Committee previously noted that, according to section 7(1) of the Employment of Women, Young Persons and Children Act, no young person (under 18) shall be employed or work during the night in any public or private industrial undertaking, other than an undertaking in which only members of the same family are employed. However, the Committee observes that there is no other provision which prohibits the employment of young persons in work which is likely to jeopardize their health, safety or morals. ***In this regard, the Committee requests the Government to take the necessary measures to ensure that the performance of hazardous work is prohibited for all persons under 18 years of age.***

Article 3(2). Determination of types of hazardous work. The Committee notes the Government's statement in its report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), in 2009 that the social partners will be consulted for the determination of the list of types of hazardous work. ***Recalling that, pursuant to Article 3(2) of the Convention, the types of hazardous employment or work shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, the Committee requests the Government to provide information on any progress made with regard to the determination of the list of types of hazardous work to be prohibited for persons under 18 years.***

Article 7(3). Determination of types of light work. The Committee notes that while section 46(3) permits children from the age of 14 to be employed during school vacations (i.e. in light work), but observes that there does not appear to be a determination of the types of light work permitted for these children. In this regard, the Committee recalls that, pursuant to Article 7(3) of the Convention, the competent authority shall determine what light work is and shall prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken. ***The Committee therefore requests the Government to provide information on any measures taken or envisaged to determine the hours during which and the conditions in which light work may be undertaken by children above the age of 14 during vacations from school, pursuant to Article 7(3) of the Convention.***

Article 9(3). Keeping of registers. The Committee previously noted that section 8(1) of the Employment of Women, Young Persons and Children Ordinance provided for the keeping of registers or lists by the employer of all persons employed who are less than 16 years of age. In this regard, the Committee recalled that Article 9(3) of the Convention requires the keeping of such registers for all persons who are less than 18 years of age. ***Noting an absence of information on this point in the Government's report, the Committee once again requests the Government to take the necessary measures to ensure that registers be kept and made available by the employer in respect of all children under 18 years of age. It requests the Government to provide information on any measures taken in this regard.***

Application of the Convention in practice. The Committee notes the Government's statement in its report submitted under Convention No. 182 in 2009 that measures will be taken to broaden the existing mandate of the national inspectorate in order to cover child labour issues, in consultation with the social partners. ***The Committee requests the Government to provide information on the manner in which the Convention is applied in practice, including statistical data on the employment of children and young persons, extracts from the reports of inspections services and information on the number and nature of violations detected involving children and young persons.***

The Committee encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. The Committee invites the Government to consider technical assistance from the ILO to bring its legislation into conformity with the Convention.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Ecuador

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Article 2(2) of the Convention. Raising the minimum age for admission to employment or work to 15 years. In its previous comments, the Committee requested the Government to consider the possibility of communicating to the Director-General of the ILO a declaration indicating that Ecuador has raised the minimum age for admission to employment from 14 to 15 years.

The Committee notes with *satisfaction* the Government's declaration that the minimum age for admission to employment has been raised to 15 years, in accordance with *Article 2(2)* of the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Articles 3(a) and 7(1) of the Convention. The trafficking of children and illicit activities and penalties. In its previous comment, the Committee noted with interest the new Penal Code of 10 February 2014, which contains specific provisions and heavier penalties for crimes involving child victims of commercial sexual exploitation and trafficking (sections 91, 92, 100 and 102). The Committee asked the Government to ensure that the measures in the new legislation that prohibit and penalize the worst forms of child labour are effectively enforced through in-depth investigations and robust prosecutions of persons who engage children in the worst forms of child labour. To that end, it asked the Government to provide information on the application of the new provisions of the Penal Code on the worst forms of child labour and trafficking of children, including the number of investigations, prosecutions and convictions, and the duration of the sentences imposed in this respect.

The Committee notes that, according to the Government's report, in 2016, the Ministry of Labour actively participated in an action to prevent the trafficking of children by taking part in awareness-raising measures and campaigns targeting the potential victims of trafficking of children, through the project for the eradication of child labour, which forms part of the preventive action of the Inter-institutional Coordination Committee of Action to Combat Trafficking in Persons and the Smuggling of Migrants. The Ministry participated in a binational workshop involving Ecuador and Colombia on the identification and management of the crime of trafficking in persons for the purposes of labour exploitation, in which around 50 officials from both countries participated.

The Committee also notes that the project for the eradication of child labour has been identified as the strategy for the implementation of the system of the single register of child labour (SURT), in collaboration with the Office of the Public Prosecutor and the Council of the Judiciary, in order to determine cases of violations of rights, penalties and restore the rights of girls, boys, and young persons who are victims of trafficking. To that end, it is envisaged that the information entered into the registration system will serve as evidence in the prosecutions against the perpetrators of these crimes. Similarly, the Committee notes the follow-up to a case of trafficking of a child for the purposes of forced labour in the town of Manta in the Manabí province, which was subject to investigation and the perpetrators were penalized. The Committee notes the inspections conducted by the Government in the areas susceptible to the worst forms of child labour, such as prostitution, begging and forced labour. The SURT, established in 2016, recorded in that year 117 cases of children and young persons in a situation of child labour, and the Government's report emphasizes that the institutions responsible for restoring rights (education, health, social protection and work) were alerted in these 117 cases.

However, the Committee notes with *regret* that the Government's report indicates that it has no record of victims of trafficking of children, as the Ministry of Labour is not responsible for judicial and criminal proceedings. ***The Committee urges the Government to pursue its efforts to ensure that various ministries and law enforcement bodies collaborate on cases of trafficking of children. The Committee urges the Government to provide information on the application of the new provisions of the Penal Code regarding trafficking of children, including the number of investigations, prosecutions and convictions, and the duration of the sentences imposed in this respect.***

Article 6. Programmes of action. Trafficking of children. The Committee notes that, in 2018, an overview of the trafficking in persons situation in Ecuador was presented by the Ministry of the Interior and the International Organization for Migration, which facilitated the compilation of information to update the national plan of action to combat the crime of trafficking in persons. ***The Committee requests the Government to take all the necessary measures to complete the process of adopting a new national plan of action to combat trafficking in persons and to provide detailed information in that regard concerning the trafficking of children.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from these forms of labour and ensuring their rehabilitation and social integration. In its previous comment, the Committee requested the Government to continue taking effective and time-bound measures to prevent the trafficking of children, provide assistance to victims and ensure their rehabilitation and

social integration. The Committee also asked the Government to provide updated information on the cases of trafficking of children registered in the registration system for cases of trafficking in persons.

The Committee takes due note of the awareness-raising measures taken by the Government through which 20,775 individuals have been made aware of the issues of child labour, trafficking in persons and the regulations on child labour and the protection of young persons from forced labour. The Committee notes that monitoring was conducted at the national level to identify children and young persons in a situation of child labour and forced labour under the Government's results management system (GPR), and 365 children and young persons in a situation of child labour and forced labour have been admitted to Government protection systems.

The Committee notes however the absence of information on the number of children who are victims of trafficking. The Committee observes that, according to information available on the website of the Ministry of the Interior, the Basic Act on human mobility and its implementing regulations were adopted in 2017. Chapter VI of the Act establishes the prevention framework for trafficking in persons and for the protection, care and reintegration of victims, which shall be implemented by the State. The Act also provides for the establishment of a register for the identification of victims and the analysis and collection of data in order to facilitate a better understanding of the phenomenon of trafficking in persons and the development of public policy in this area. ***The Committee requests the Government to continue its efforts to prevent the trafficking of children. Furthermore, it takes due note of the 2017 Basic Act on human mobility and requests the Government to provide detailed information on the measures taken for the implementation of the Act to provide assistance to children who are victims of trafficking in persons and to ensure their rehabilitation and social integration. The Committee requests the Government to send information on the number of children who have been removed from trafficking, rehabilitated and socially integrated, disaggregated by age and gender.***

Article 8. International cooperation and assistance. Trafficking of children. In its previous comment, the Committee requested the Government to provide the results of the surveys conducted by the Government on the border in collaboration with Peru and Colombia and statistics on the number of child victims who have been identified then repatriated to their country of origin.

The Committee takes due note of the 2016 bilateral agreement concluded between Peru and Ecuador for the prevention and investigation of the crimes of trafficking in persons and for assistance and comprehensive protection to victims of trafficking. It notes that this agreement was developed in collaboration with civil society organizations. The Committee notes from the Government's report that the 11 children and young persons were identified in the country as trafficking victims and were repatriated to their countries of origin between 2013 and 2016. ***The Committee requests the Government to indicate whether the exchange of information with Peru carried out within the framework of the agreement concluded in 2016 has provided information on the identification of and penalties imposed on perpetrators of trafficking of children and their networks. The Committee requests the Government to continue its efforts to detect and intercept child victims of trafficking at the border and to provide statistical data on the results achieved in its next report, disaggregated by gender and age.***

The Committee is raising other matters in a request addressed directly to the Government.

El Salvador

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children for sexual exploitation. In its previous comments, the Committee requested the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions are conducted against persons engaged in the sale and trafficking of children under 18 years of age for sexual exploitation. It also requested the Government to ensure that the special Bill to combat human trafficking is adopted. It further requested it to provide statistical data on the investigations carried out and convictions obtained in relation to the sale and trafficking of children under the age of 18 years for sexual exploitation.

The Committee notes the information contained in the Government's report, according to which trafficking in persons has become the second major crime after drug trafficking, and particularly affects children between the ages of 10 and 19 years, and that it will be made a priority. The Committee notes with *satisfaction* the adoption of the Act to combat trafficking in persons (Decree No. 824 of 16 October 2014) and its Regulations (Decree No. 61 of 25 October 2016). The Committee notes that the new Act contains a broad definition of the crime of trafficking in persons, "the act of delivering, capturing, transporting, transferring, receiving persons, or facilitating, promoting or favouring such an act, with a view to engaging in or permitting others to engage in an activity relating to human exploitation", and that it establishes a sentence of imprisonment of from ten to 14 years. Section 55 of the Act provides for an aggravated sentence of from 16 to 20 years' imprisonment if the victim is a girl or a boy. In accordance with the Act, the committing of a crime in respect of a girl or a boy or a young person is an aggravating circumstance. Furthermore, section 55 takes into account the crimes caused by the persons directly or indirectly responsible for the care of a girl, boy or young person subject to a placement measure or in a public or private care institution. The Act contains 69 sections which criminalize sexual exploitation, sexual tourism, the sale of persons, forced labour or services, slavery and exploitation through begging. The Act contains specific measures for the protection of victims: (i) the establishment of special units within the Ministry of the Interior and the

national policy; (ii) specialized shelters and care centres for victims of trafficking in persons; (iii) social reintegration programmes with extended assistance measures; (iv) victim assistance funds; and (v) access to justice and confidentiality. It also envisages an evaluation every three years of the national policy to combat trafficking in persons.

The Committee notes the detailed information provided by the Government in its report on cases of sale and trafficking of children, the nature of the convictions and the penalties imposed. The Government indicates that 55 persons were arrested in 2014 for the crime of trafficking in persons and 53 investigations were conducted, resulting in seven prosecutions and convictions for trafficking in children. Between 2016 and 2017, six persons were prosecuted and convicted of crimes of trafficking of minors for labour and sexual exploitation. The Committee notes the data provided by the Government on cases of trafficking in persons at the border: 87 victims of sexual exploitation were identified (76 women and 11 men), of whom 68 were children and three were victims of forced labour. Ten of these victims were not of El Salvadorian nationality.

The Committee also notes the development of the project to prevent and combat the illicit smuggling of migrants and trafficking in persons, the objective of which is to strengthen capacities for the detection, investigation, management and resolution of cases of trafficking in persons and smuggling of migrants. The three-year project is implemented by the United Nations Office on Drugs and Crime Regional Office for Central America and the Caribbean (UNODC-ROPAN) and the Ministry of Justice and Public Safety. ***The Committee requests the Government to provide information on the application of the Special Act to combat trafficking in persons, including the investigations and prosecutions conducted and the convictions obtained in relation to the trafficking of children under 18 years of age. The Committee also requests the Government to provide information on the implementation of the project to prevent and combat the unlawful smuggling of migrants and the trafficking of persons, when it has been adopted.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and removing them from such labour. Commercial sexual exploitation and trafficking of children for that purpose. In its previous comments, the Committee noted that the Ministry of Justice and Public Security had implemented a plan to eradicate commercial sexual exploitation, trafficking of persons, child labour and the worst forms of child labour as part of the Institutional Strategy Plan. However, the Committee noted that, while the national plan and the mandate of the National Council target trafficking of persons generally, they do not contain specific provisions respecting child victims under the age of 18 years. The Committee encouraged the Government to take immediate and effective time-bound measures for the prevention of cases of trafficking, the removal of children from such conditions and the rehabilitation of child victims of such practices, within the context of the national plan.

The Committee notes from the Government's report that the justice and public security and cohabitation policy developed by the Ministry of Justice and Public Security, and its five main pillars which articulate the strategies and actions of the policy. The first phase of pillar 4 assesses child victims of crimes through the revision of special protocols for care for victims at the level of the central administrative and judicial offices and through support for victims by the National Council for Children and Young Persons (CONNA) and through the El Salvador Institute for the Comprehensive Development of Children and Young Persons (ISNA).

The Committee notes from the Government's report the training provided for magistrates, the police and investigators in relation to "investigations into trafficking in persons, assistance to victims of trafficking and how to guarantee access to justice for these victims". It also notes the training on trafficking in persons undertaken by officials from El Salvador for public officials in Panama and the mutual assistance between the officials of Interpol, Guatemala, Honduras, Nicaragua, Mexico and the United States.

The Committee notes from the Government's report that 13 child victims of trafficking for sexual exploitation were provided with medical and psychological care in 2014 in the shelter for young girl victims of sexual exploitation. ***Recalling once again that children under 18 years of age are particularly at risk of trafficking for commercial sexual exploitation, the Committee strongly encourages the Government to continue its efforts to prevent cases of trafficking, remove children from these conditions and ensure the rehabilitation of child victims of such practices, particularly in the context of the national plan. Noting the absence of information on this subject, the Committee requests the Government to provide indications in its next report on the results achieved through the activities undertaken in the context of the Institutional Strategy Plan.***

The Committee is raising other matters in a request addressed directly to the Government.

Eritrea

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee expressed its concern regarding the widespread child labour in Eritrea and the lack of data and comprehensive measures to ensure that children are protected from economic exploitation. The Committee also recalls the 2008 concluding observations of the Committee on the Rights of the Child (CRC) (CRC/C/ERI/CO/3, paragraphs 12 and 13), which recommended

that the Government adopt a national plan of action for children and requested that the Government, with the support of the ILO, UNICEF and NGOs, develop a comprehensive assessment study and plan of action to prevent and combat child labour.

The Committee notes the Government's indication that it has collected data and information to formulate a national policy and that an upcoming Comprehensive National Child Policy document is expected to strengthen efforts to provide sustained services to children.

The Committee notes with **concern**, however, that despite these preliminary measures, the Government's report describes very little concrete action that has been undertaken to combat child labour, notwithstanding its prevalence in the country. The Committee notes, in this respect, the reports of the UN Human Rights Council (A/HRC/26/L.6 and A/HRC/26/45) in 2014, which continue to highlight child labour in the country, including military conscription, as well as work in hazardous activities such as harvesting and construction. The Committee further notes with **concern** the Government's indication in its fourth periodic report to the CRC (CRC/C/ERI/4, paragraph 22) that, because no case of child labour practices had been filed in Eritrean courts, the Government's efforts to control child labour must have been effective. **Observing with deep concern the continuing widespread child labour in Eritrea, including in hazardous activities, the Committee strongly urges the Government to intensify its efforts to implement concrete measures, such as by adopting a national plan of action to abolish child labour once and for all, in cooperation with the employers' and workers' organizations concerned, as well as strengthening the capacity of the labour inspection system. The Committee also strongly encourages the Government to seek technical assistance from the ILO.**

Article 2(3) and (4). Age of completion of compulsory schooling and minimum age for admission to employment. In previous comments, the Committee noted the Government's indication that education is compulsory for eight years (five years of elementary school and three years of middle school), meaning that compulsory education would be completed at 14 years of age. Nevertheless, the Committee noted its concern at the low school enrolment rates and the significant number of children who leave school prior to completing primary education.

The Committee notes the measures described in the Government's report to provide free education to all school children up to the middle school level as well as its policies, in particular the Nomadic Education Policy, to make education inclusive to all children. The Government further indicates that it endeavours to expand secondary school education and bring those schools closer to rural areas. The Committee also notes the 2013–16 UNICEF Country Programme Document for Eritrea (E/ICEF/2013/P/L.1), which highlights certain measures that the Government has undertaken to improve basic education, including the free elementary education and nomadic education projects.

While taking due note of the Government's efforts, the Committee also notes that, according to the statistical information contained in the draft proposal within the Strategic Partnership Cooperation Framework (SPCF) 2013–16 between the Government and the United Nations system, the net enrolment rate declined from 52.5 per cent in 2005 to 49.6 per cent in 2010, with disparities by location and gender. The Committee further notes the information contained in the Government's fourth periodic report to the CRC (CRC/C/ER/4, paragraph 301 and table 28), according to which student enrolment at the elementary school level decreased by 9 per cent and female enrolment decreased by 8 per cent in 2009–10. **Noting that increasing access to quality basic education is included among the priorities of the SPCF 2013–16, as well as the Eritrea Country Programme with UNICEF, the Committee requests the Government to continue to cooperate with the UN bodies to improve the functioning of, and access to, the education system so as to increase school enrolment rates and reduce school drop-out rates for children at least up to the age of completion of compulsory education, particularly with regard to girl children.**

Article 3(2). Determination of the types of hazardous work. The Committee recalls that the Government has been referring to the upcoming adoption of a list of hazardous activities prohibited to young employees under section 69(1) of the Labour Proclamation since 2007. The Committee notes that the Government again repeats this indication but also states that the provisions specified under the current section 69 of the Labour Proclamation are sufficient because they include the list of hazardous activities. The Committee notes, however, that section 69 merely authorizes the minister, by regulation, to issue such a list. Therefore, in lieu of a ministerial regulation, by its own terms, the list contained in section 69 remains hypothetical. **The Committee accordingly urges the Government, without delay, to finalize the ministerial regulation issuing the list of hazardous activities prohibited to persons under the age of 18.**

Article 9(3). Keeping of registers by employers. The Committee previously noted the Government's indication that the requirement for employers to maintain a register for persons employed who are under 18 years would be addressed in an upcoming regulation. The Committee notes, however, the Government's latest indication that the Ministry of Labour and Human Welfare is still undertaking studies to develop this regulation. **Noting that the Government has been repeating its aim to adopt implementing legislation since 2007, the Committee urges the Government, without further delay, to take the necessary measures to adopt the regulation concerning the registers kept by employers and to transmit a copy once finalized.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Ethiopia

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 2(1) of the Convention. Scope of application and application in practice. The Committee previously noted that although section 89(2) of the Labour Law Proclamation No. 42 of 1993 prohibits the employment of persons under 14 years of age, the provisions of the Labour Law did not cover work performed outside an employment relationship.

The Committee notes the Government's reference in its report to the Constitution that provides for Ethiopian children without any discrimination, whether employed or self-employed, working in the formal or informal sector, the right to be protected from any forms of exploitative labour. The Government also indicates that a labour inspection manual has been prepared in the local working language and incorporates guidelines for inspectors on how to detect and protect children from child labour both in the formal and informal sectors.

The Committee notes that with the technical assistance of the ILO, the 2015 Child Labour Survey was published in 2018. According to the Child Labour Survey results, the number of children aged 5–13 engaged in child labour is estimated to be 13,139,991 (page 63). The Committee also notes that most of the working children (89.4 per cent) are engaged in the agricultural, forestry and fishing sectors, with a higher participation of the youngest children. The rural areas account for 93 per cent of working children in this sector while the urban areas account for 39.6 per cent. The wholesale and retail trade is the second most important sector where children are involved in work. The majority of children performing economic activities were working as unpaid family workers (95.6 per cent) (page xii). The Committee notes with **concern** the high number of working children in the informal economy. It reminds the Government that the Convention applies to all sectors of economic activity and covers all forms of employment and work, whether or not there is a contractual employment relationship, including own-account work. ***The Committee therefore requests that the Government take the necessary measures to ensure that all children under 14 years of age, particularly children working outside an employment relationship such as children working on their own account or in the informal economy, benefit from the protection laid down by the Convention. In this regard, the Committee encourages the Government to review the relevant provisions of the Labour Law in order to address these gaps as well as to take measures to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy with a view to ensuring such protection in this sector.***

Article 2(3). Age of completion of compulsory schooling. In its previous comments, the Committee noted that primary education in Ethiopia was neither free nor compulsory, and that net enrolment remained very low. The Committee also noted that UNICEF statistics indicated that while the net attendance for primary school was 64.3 per cent for boys and 65.5 per cent for girls, it was only 15.7 per cent for boys and 15.6 per cent for girls in secondary school. The Committee urged the Government to take the necessary measures to provide for compulsory education up to the minimum age of admission to employment of 14 years.

The Committee notes the Government's indication that it has started the process of drafting legislation which aims at making primary education compulsory. The Committee notes that according to the Child Labour Survey, the school attendance rate is 61.3 per cent among children aged 5–17 years (page xi). Children who are attending school are working about 28 hours per week, while those who are only working for 37.6 hours. Moreover, 2,830,842 children in the 5–17 years age group (7.6 per cent of the total number of children in the country), dropped out of school. The Committee notes that the drop-out rate is higher among working children (10.9 per cent) than non-working children (4.1 per cent). Working boys are more likely to drop out of school than working girls (11.6 per cent versus 9.8 per cent) (pages 86 and 88).

The Committee further notes that, in its 2015 concluding observations, the Committee on the Rights of the Child (CRC) was concerned about a certain number of issues, including: (i) the lack of national legislation on free and compulsory education; (ii) the persistent regional disparities in enrolment rates and the high number of school-aged children, particularly girls, who remain out of school; as well as (iii) the high drop-out rates, the significant low enrolment rates in pre-primary education and secondary education (CRC/C/ETH/CO/4-5 paragraph 61). ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to take the necessary measures to provide for compulsory education up to the minimum age of admission to employment of 14 years. It also requests the Government to intensify its efforts to increase school enrolment rates and decrease drop-out rates at the primary level with a view to preventing children under 14 years of age from being engaged in work.***

Article 3. Minimum age for admission to, and determination of hazardous work and application in practice. The Committee previously noted the Decree of the Minister of Labour and Social Affairs of 2 September 1997 concerning the prohibition of work for young workers which, under section 4(1), contains a detailed list of types of hazardous work and a general prohibition of all other kinds of work likely to jeopardize the young worker's morals or physical condition/health. The Committee also noted the Government's indication in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that it was revising its hazardous work list.

The Committee observes that, according to the Child Labour Survey, the rate of hazardous work among children aged 5–17 years is 23.3 per cent (28 per cent for boys versus 18.2 per cent of girls) and in urban areas it was 9.2 per cent as compared to 26.4 per cent in rural areas. Moreover, the average hours of work per week performed by children engaged in hazardous work in the age group 5–17 years was 41.4 hours. In addition, 50 per cent of them are working more than 42 hours per week. The youngest children aged 5–11 years are relatively more involved in working long hours than any other age category (53.3 per cent). The Committee also notes that among children engaged in hazardous work, 87.5 per cent work in the agricultural sector, and 66.2 per cent are involved in other hazardous working conditions such as night work, working in an unhealthy environment or using unsafe equipment at work (page xiii).

The Committee notes with **deep concern** that a significant number of children under 18 years of age are engaged in hazardous work. ***The Committee therefore urges the Government to strengthen its efforts to ensure that, in practice, children under 18 years of age are not engaged in hazardous work in either urban and rural areas. The Committee also requests the Government to provide information in this regard. The Committee further requests the Government to indicate whether a new list of types of hazardous work was adopted and to supply a copy.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to supply full particulars to the Conference at its 108th Session and to reply in full to the present comments in 2019.]

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Articles 3(a) and 7(1) and 7(2)(b) of the Convention. Sale and trafficking of children, penalties, and rehabilitation. The Committee notes the Government's reference in its report to the adoption in 2015 of the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909 (Anti-Trafficking Act) that has replaced the relevant sections of the Criminal Code related to trafficking in persons. The Committee notes with **interest** that section 3(2) of the Anti-Trafficking Act makes it an aggravating circumstance if the victim of any of the crimes under this Act is a child and provides for a penalty of imprisonment from 25 years to life imprisonment. The Committee also notes the Government's statement that several measures have been undertaken to combat trafficking in persons as a whole and women and children in particular, including: (i) the organization of awareness-raising campaigns within communities (to date more than 10 million community members have taken part in trainings on the issue of prevention of trafficking); (ii) the provision of training on the effects of child trafficking to law enforcement bodies; and (iii) the establishment of a control mechanism in transport services that aims to check whether children travelling in public transportation are with their parents or guardians.

The Committee observes, however, that in its 2015 concluding observations, the Committee on the Rights of the Child (CRC) expressed its deep concern about the persistence of trafficking in children abroad and within the country for the purpose of domestic servitude, commercial sexual exploitation and exploitation in the worst forms of child labour. The CRC was also deeply concerned at the lack of rehabilitation and reintegration centres to provide child victims of trafficking and commercial sexual exploitation with the adequate, age-sensitive medical and psychological assistance (CRC/C/ETH/CO/4-5, paragraph 69).

Regarding the establishment of rehabilitation centres for child victims of trafficking, the Committee observes that under section 26 of the Anti-Trafficking Act, the Government shall put in place necessary working procedures to identify, rescue, repatriate and rehabilitate victims of trafficking. Under section 39, a National Anti-Trafficking Committee aimed at coordinating the activities for victims' protection has been established, as well as an Anti-trafficking Task Force to support the rehabilitation of victims of trafficking (section 40). ***The Committee encourages the Government to strengthen its efforts to ensure the effective application of the Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation No. 909 of 2015 and to take the necessary measures to ensure that thorough investigations and prosecutions of persons who engage in the sale and trafficking of children are carried out and that effective and dissuasive penalties are imposed in practice. The Committee requests the Government to provide information in this regard, including statistics on the number and nature of offences reported, investigations, prosecutions, convictions and penal sanctions imposed with regard to the trafficking of children under 18 years. The Committee also requests the Government to provide information on the number of child victims of trafficking who have been identified and rehabilitated.***

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Child victims/orphans of HIV/AIDS and other vulnerable children (OVCs). The Committee previously noted the Government's Orphan and Vulnerable Children programme with the involvement of relevant government bodies, NGOs and the community, as well as its small-scale OVC care and support activities throughout the country. It also noted the Government's reference to the National Plan of Action to Eliminate the Worst Forms of Child Labour (2013–15) (NPA) and requested information in this regard.

The Committee once again notes an absence of information on this point in the Government's report. The Committee notes that an ILO mission took place in Ethiopia in September 2016 as a follow-up to the March 2015 mission on implementation gaps in the application of the child labour Conventions. According to the mission report, the mapping of a new National Plan of Action to eliminate the worst forms of child labour, is ongoing.

The Committee also observes that, according to UNAIDS estimates, there are nearly 710,000 adults and children living with HIV/AIDS in Ethiopia, of whom 650,000 persons are aged 15 and over (2016 estimates). The Committee further notes that the CRC remained concerned that HIV/AIDS still remains a major challenge, particularly in the urban areas and for children in vulnerable situations, including orphans, children in street situations, and children living in poverty and in single parent and child headed households (CRC/C/ETH/CO/4-5, paragraph 57).

The Committee expresses its **concern** at the large number of children who are HIV/AIDS orphans in the country. The Committee recalls that OVCs are at an increased risk of being engaged in the worst forms of child labour. ***The Committee therefore urges the Government to take immediate and effective measures to ensure that children orphaned by HIV/AIDS and other vulnerable children do not fall into the worst forms of child labour. The Committee also requests the Government to provide information on the results of the NPA (2013–15) on protecting children orphaned by HIV/AIDS, indicating for instance, the number of OVCs who have effectively been prevented from becoming engaged in the worst forms of child labour or removed from these worst forms. Lastly, the Committee requests the Government to indicate whether a new NPA has been adopted and, if so, to indicate its major outcomes.***

Clause (e). Special situation of girls. Domestic work. The Committee previously noted that there were approximately 6,500–7,500 child domestic workers in Addis Ababa, who were subject to extreme exploitation, working long hours for minimal pay or modest food and shelter, and that they are vulnerable to physical and sexual abuse.

The Committee notes the Government's indication that it is working on creating awareness amongst the family and community to prevent children from being exploited and to prevent families from rendering their children to strangers or relatives living in urban areas.

The Committee observes that, in its 2015 concluding observations the CRC was seriously concerned about the situation of child domestic workers, called *seratenyas*, of orphans and children in street situations, as well as of young girls moving to foreign countries and being economically exploited and abused (CRC/C/ETH/CO/4-5, paragraph 63). The Committee recalls that children engaged as domestic workers are particularly exposed to the worst forms of child labour. ***In this regard, the Committee requests the Government to take immediate and effective measures to protect child domestic workers, and girls in particular, from engaging in exploitative domestic work. The Committee requests the Government to provide information on the effective and time-bound measures taken in this regard and on the results achieved.***

The Committee is raising other matters in a request addressed directly to the Government.

Ghana

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Article 3(d) of the Convention. Hazardous work in cocoa farming. The Committee previously noted the Government's activities within the framework of the National Programme for the Elimination of Worst Forms of Child Labour in the Cocoa Industry (NPECLC) and its action plan for 2010–11. It further welcomed the development of the manual for agents of change in communities in Ghana, which was developed with ILO–IPEC assistance in 2014 with a view to, among others, eliminate child labour in hazardous work in Ghana's cocoa farms. It noted, however, the statistical data contained in the manual, according to which most children aged 5–17 years engaged in labour in the country were found in the agricultural sector, with 23.3 per cent of the children covered (1,846,126) engaged in at least one hazardous activity with 10 per cent in cocoa-specific hazardous activities. The Committee noted with concern the significant number of children below 18 years of age engaged in hazardous conditions of work in the agricultural sector, including in the cocoa industry, and requested the Government to strengthen its efforts to eliminate this worst form of child labour.

The Committee notes with *regret* the absence of information in the Government's report on this issue. ***The Committee therefore urges the Government to undertake the necessary measures to eliminate the hazardous work of children under 18 years of age in cocoa farming, and requests the Government to provide information on any initiatives taken in this regard and the results achieved.***

Article 4(3). Revision of the list of hazardous types of work. The Committee previously noted the Government's indication that it envisaged to review and update as necessary section 91 of the Children's Act, including the list of types of hazardous work so as to be in compliance with the Convention. The Committee noted that a new list of hazardous work had been finalized in the cocoa sector within the framework of the NPECLC. The Committee also noted that the National Plan of Action (NPA) for the Elimination of the Worst Forms of Child Labour in Ghana (2009–15) identified the need to expand the list of hazardous activities under the Children's Act. It further noted that the Economic Community of West African States (ECOWAS) "Peer Review of Child Labour Elimination Activities in Ghana", which was carried out in April 2014 with ILO technical assistance, described the Hazardous Child Labour Activity Framework that was elaborated in 2012 and was to be disseminated in 2014. The Committee further noted that, according to the Government's first report submitted under Convention No. 138, the National Steering Committee of the Child Labour Unit (CLU) had validated a list of hazardous types of work under the Hazardous Child Labour Activity Framework, entitled the "Ghana Hazardous Child Labour List" (GHAHCL), although the Government indicates that it had not yet become national law.

The Committee notes with *regret* the absence of information in this regard. ***Noting that the list of hazardous types of work under the Hazardous Child Labour Activity Framework has been elaborated and validated since 2012, the Committee urges the Government to take the necessary measures to ensure that it is adopted in the near future. The Committee also requests the Government to provide information on any progress made in this regard.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. 1. *Trafficking.* The Committee previously noted that ILO–IPEC was supporting a national programme which focused on, among others, the worst forms of child labour in traditional fishing. The Committee also noted the Analytical Study on Child Labour in Lake Volta Fishing in Ghana, which was carried out in 2013 with ILO–IPEC assistance, which found that working children are engaged in hazardous fishing activities and are confronted with poor working conditions. Among the children engaged in fishing activities, 11 per cent were aged 5–9 years and 20 per cent were aged 10–14 years. Furthermore, according to the study, 47 per cent of children engaged in fishing in Lake Volta were victims of trafficking, 3 per cent were involved in bondage, 45 per cent were engaged in forced labour and 3 per cent were engaged in sexual slavery. The Committee expressed its deep concern at the prevalence of children who have been trafficked or sold into fishing activities, or are otherwise engaged in hazardous fishing activities in the Lake Volta region.

The Committee notes with *regret* the absence of information in this regard in the Government's report. However, the Committee notes from the Government's replies to the list of issues in relation to the initial report of Ghana under the International Covenant on Civil and Political Rights of 13 June 2016, that the Government is implementing the Child Protection Compact Agreement aimed at combating child trafficking, child slavery, and child labour in the Greater Accra, Volta and Central Regions. Currently, standard operating procedures and the database of trafficking in persons are being developed to identify

victims of trafficking and follow up on various assistance interventions (CCPR/C/GHA/Q/1/Add.1, paragraph 74). The Committee also notes that, there are two government-owned shelters in Osu and Madina in Accra, which will be soon under renovation (paragraph 75). The Committee further notes that, the General Agriculture Workers Union (GAWU) project is being implemented in Kpondo Torkor to eliminate trafficking and child labour in the fishing sector (Volta Lake). The project puts a focus on the communities to protect children and send them to school. Moreover, a speedboat was launched in April 2015 to assist volunteers to monitor activities, arrest perpetrators and rescue children on the lake (paragraph 76). ***While taking due note of the measures undertaken by the Government, the Committee once again urges the Government to strengthen its efforts to ensure that these children are removed from the worst forms of child labour and provided with appropriate support services for their rehabilitation and social integration. It also once again requests the Government to provide information on the results achieved in this regard, including the number of child victims of trafficking who have been removed and rehabilitated, as a result of the measures taken.***

2. *Trokosi system.* The Committee previously noted that, despite the Government's efforts to withdraw children from *trokosi* (a ritual in which teenage girls are pledged to a period of service at a local shrine to atone for another family member's sins), the situation remained prevalent in the country. The Committee also noted that, under the NPA for the Elimination of the Worst Forms of Child Labour (2009–15), the Government aims to implement programmes to facilitate change in attitudes with regard to traditional practices towards children's rights.

The Committee notes with *regret* that the Government's report provides no new information on its programmatic measures to prevent and remove children from the *trokosi* system. It also notes that the Human Rights Committee is concerned about the persistence of certain harmful practices, including the *trokosi* system, notwithstanding their prohibition by law, in its concluding observations of 9 August 2016 (CCPR/C/GHA/CO/1, paragraph 17). The Committee notes with *deep concern* the prevalence of the *trokosi* practice affecting children in the country. ***The Committee therefore strongly urges the Government to take immediate and effective measures to prevent the engagement of children into trokosi ritual servitude and to put an end to this traditional practice as a matter of urgency. It once again requests the Government to indicate the measures taken in this regard and the results achieved, taking account of the special situation of girls. It once again requests the Government to provide information on the number of children under 18 years of age who are affected by the trokosi system in the country, and on how many are removed from this system and rehabilitated. To the extent possible, this information should be disaggregated by age and by gender.***

The Committee is raising other points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Greece

Minimum Age Convention, 1973 (No. 138) (ratification: 1986)

The Committee notes the observations of the Greek General Confederation of Labour (GSEE) received on 1 September 2016 and 2017.

Article 3(3) of the Convention. Authorization to carry out hazardous work from the age of 16 years. The Committee had previously noted that section 7(5) of Presidential Decree No. 62 of 1998 provides that, with the permission of the competent labour inspectorate and upon the employer's application, derogations from the prohibition of employment in work that are liable to prejudice the health, safety or development of young persons may be granted where such work is necessary for their vocational training on the condition that these works are carried out under the supervision of a safety technician and/or labour technician thereby ensuring their safety. It also noted that, under the terms of section 2(c) of Presidential Decree No. 62 of 1998, the term "adolescent" means any young person of at least 15 years but less than 18 years of age who has ceased compulsory education. The Committee had therefore urged the Government to take the necessary measures to bring its national legislation into conformity with *Article 3(3)* of the Convention by providing that no person under 16 years of age may be authorized to perform hazardous work under any circumstances.

The Committee notes the Government's indication in its report that procedures will be initiated to bring about a possible amendment to the legislation, in this regard. The Committee once again reminds the Government that, according to *Article 3(3)* of the Convention, national laws or regulations or the competent authority may authorize employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity. In this regard, the Committee must emphasize that the necessary measures should be taken to ensure that young persons below 16 years of age engaged in apprenticeship do not undertake hazardous work and that measures should be taken to raise the minimum age for admission to hazardous work to 16 years, even if the required protective conditions are adequately provided (see 2012 General Survey on the fundamental Conventions, paragraphs 380 and 385). ***The Committee therefore expresses the firm hope that the Government will take the necessary measures, without delay, to ensure that the amendments with regard to the minimum age for the exemptions from the prohibition on the employment of young persons in hazardous work as laid down in section 7(5) of Presidential Decree No. 62/1998 will be raised to at least 16 years so as to be in compliance with Article 3(3) of the Convention. It requests the Government to provide information on any progress made in this regard.***

Application of the Convention in practice and conditions of work of young persons. Following its previous comments, the Committee notes the Government's information that in 2017, 7,647 working booklets for minors were approved by the Regional Departments of Labour Relations Inspectorates. It also notes that fines were imposed on 12 employers for the illegal employment of minors. Moreover, the Government indicates that 1,332 young persons aged between 15 and 17 years were employed in 2017, including 446 young persons employed in agriculture, forestry and

fisheries; 79 young persons in manufacturing, energy and constructions; 181 young persons employed in wholesale and retail trade; and 627 young persons employed in services.

The Committee notes the GSEE's observation that young persons in employment are subject to unequal treatment in terms of payment and conditions of work. *The Committee requests the Government to take the necessary measures to ensure that the conditions of employment for young persons under the age of 18, particularly as regards minimum wage, are maintained at a satisfactory standard. The Committee further requests the Government to continue to provide information on the manner in which the Convention is applied, including, for example, statistical data on the employment of children and young persons, extracts from the reports of inspection services and information on the number and nature of violations detected and penalties applied involving children and young persons.*

Guatemala

Minimum Age Convention, 1973 (No. 138) (ratification: 1990)

The Committee notes the joint observations made by the International Organization of Employers (IOE) and the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), received on 1 September 2018.

Article 1 of the Convention. National policy, labour inspection and application of the Convention in practice. In its previous comments, the Committee observed that the information provided by the labour inspection services lacked detail concerning the subjects covered, the nature of the violations reported and the penalties imposed. The Committee noted that the Committee on Economic, Social and Cultural Rights, in its concluding observations in 2014 (E/C.12/GTM/CO/3, paragraph 20), expressed concern at the persistence of child labour in Guatemala, especially in agriculture and domestic work. It requested the Government to continue taking measures in practice to strengthen the capacity and expand the reach of the labour inspection services in their action to prevent and combat child labour. It also requested the Government to continue providing information on the manner in which the Convention is applied in practice, particularly on the basis of statistics of labour by children under 14 years of age, extracts from the reports of the inspection services and information on the number and nature of the violations reported and the penalties imposed.

The Committee notes the information contained in the Government's report to the effect that the Ministry of Labour and Social Security, with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the structural reform fund of the German Agency for International Cooperation (GIZ), has printed and disseminated the "single protocol on procedures for the labour inspection system" as a tool to reinforce the General Labour Inspectorate.

The Committee notes the statistics of the Ministry of Labour and Social Security and the General Labour Inspectorate concerning cases of child labour detected by the labour inspection services: in 2015, of the 85 cases of child labour detected, 27 resulted in reconciliation between the parties and 19 victims renounced or abandoned their complaint; in 2016, of the 67 cases of child labour detected, 16 resulted in reconciliation between the parties and nine victims renounced or gave up their complaint; in 2017, of the 26 cases of child labour detected, six resulted in reconciliation between the parties and nine victims renounced or abandoned their complaint. In 2015, the labour inspection services carried out 6,686 inspections in sectors in which hazardous types of work are predominant, such as activities relating to the cultivation, harvesting, handling and processing of sugar cane and the export of sugar, as well as the African palm sector, hotels, restaurants and, finally, the sector of the production and distribution of fireworks. During these inspections, 68 child workers under the age of 18 years were found, including 33 boys and 14 girls between the ages of 14 and 17 years and 17 boys and four girls under 13 years of age. In 2016, a total of 5,590 inspections were undertaken by the labour inspection services in the same sectors. A total of 97 child labourers under 18 years of age were detected, including 60 boys and 14 girls between the ages of 14 and 17 years and seven boys and four girls under 13 years of age. In 2017, inspections were focused on sectors in which there is proof of violations related to child labour, such as local shops, workshops and tortilla outlets. In total, 1,734 inspections were undertaken by the labour inspection services, in which 37 children under 18 years of age were detected, including 23 boys and 12 girls between the ages of 14 and 17 years, and one boy and one girl under 13 years of age.

The Committee notes that, according to the joint observations of the IOE and the CACIF, there was a positive legislative change in 2017 with the adoption of Act No. 5198, amending Decree No. 1441, which amends the Labour Code and allows the General Labour Inspectorate to impose penalties directly in cases of the violation of labour rights. They indicate that the labour inspection services could only recommend a fine previously, but that this change considerably reinforces their potential action, including the possibility of imposing penalties.

The Committee also notes that the General Labour Inspectorate may also participate in the National Commission for the Elimination of Child Labour (CONAPETI), as set out in Government Decision No. 347-2002 and Government Reform Decision No. 103-2015.

The Committee notes from the Government's report that the road map "for a Guatemala free from child labour 2016–20" was reprogrammed in 2017. The programme is based on the current situation of child labour in Guatemala, the international framework and the lessons drawn from the outcome of previous road maps (2010–12 and 2013–15) with a

view to determining the strong points and challenges for its implementation. The strategy is also based on the association of the various institutions and bodies which make up the Executive Secretariat of the CONAPETI and the departmental committees (CODEPETIS) in order to ensure that its programming has a sectoral and territorial dimension. The components of the road map are as follows: (i) action to combat poverty; (ii) health policy; (iii) education policy; (iv) regulatory framework and overall protection; (v) awareness-raising and citizen's participation; and (vi) replication of knowledge and follow-up.

The Committee takes due note of the detailed information provided by the Government in Annex 5 to its report on the various actions carried out within the context of the Road map between 2015 and 2017 in the various regions of the country with a view to the progressive eradication of child labour and the minimum age for admission to employment such as: 15 actions in the various departments of the northern region; 13 actions in the departments of the southern region; 53 actions in the departments of the western region; 41 actions in the departments of the eastern region; and 18 actions in the departments of the central region of the country. The action undertaken has included the following: (i) departmental dialogues for children and young persons on their rights; (ii) conferences on the rights of the child; (iii) training on labour law and child labour for the personnel of enterprises, public employees and unions, (iv) training for employers on labour legislation respecting employers' obligations; (v) awareness-raising campaigns on the penalties and consequences of the recruitment of minors; (vi) analyses of child labour; and (vii) meetings with the legal representative of the Chamber of Commerce and Industry of Guatemala and the legal representative of trade unions.

While taking due note of the measures taken by the Government, the Committee requests it to continue its efforts to ensure the progressive elimination of child labour. It also requests the Government to continue providing information on the results achieved in the context of the implementation of the Road map for a Guatemala free of child labour and the worst forms of child labour. Furthermore, the Committee requests the Government to continue adopting practical measures to reinforce the capacity and extend the scope of the labour inspection services in terms of their action to prevent and combat child labour, in view of their important role in enforcing the minimum age for admission to employment. In view of the reform of the Labour Code in 2018, referred to above, the Committee requests the Government to provide detailed information on the number and nature of the violations detected and the penalties imposed by labour inspectors during inspections.

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the joint observations of the International Organisation of Employers (IOE) and the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), received on 1 September 2018.

Articles 3(a) and 7(1) of the Convention. *Sale and trafficking of children for commercial sexual exploitation, and penalties.* In its previous comments, the Committee noted the persistence of the problem of trafficking of children under 18 years of age for commercial sexual exploitation and the allegations of the complicity of law enforcement officers with persons engaged in the trafficking of persons. The Committee requested the Government to pursue its efforts to ensure that thorough investigations and robust prosecutions are carried out against the perpetrators of trafficking of children under 18 years of age for commercial sexual exploitation, and against officials who are complicit in such acts.

The Committee notes the joint observations of the IOE and the CACIF, which indicate that, according to the latest report of the United States Department of Labor (USDOL) on child labour and the worst forms of child labour, in 2016 Guatemala was recognized as one of the 23 countries, out of the 135 countries examined, which had made significant progress in the eradication of the worst forms of child labour. The joint observations of the IOE and CACIF also indicate that the Government has re-established the Inter-Institutional Committee to Combat Trafficking in Persons and that it has associated with the National Centre for Disappeared and Exploited Children, which collaborates directly with technological enterprises to obtain evidence of pornography and the trafficking of children.

The Committee notes that, according to Annex No. 1 and Annex No. 2 of the Government's report, the statistical information for 2015 to 2017, provided by the Office of the Prosecutor against trafficking in persons, indicates that between 2015 and the first half of 2017 a total of 434 investigations were conducted into offences relating to trafficking in persons in which 314 young persons, including 283 girls and 31 boys, and 110 children, including 64 girls and 46 boys, were involved. According to the Centre for Judicial Information, Action and Statistics, a total of 682 cases of trafficking in persons and other related violations were recorded in the judicial sector between 2015 and February 2018. The Government emphasizes that, with regard to prosecutions against complicit officials, these crimes are not covered by the statistics, as institutional registers always endeavour to disaggregate this type of variable, among others. Similarly, the Office of the Prosecutor against trafficking in persons indicated that one public official has been detained and convicted to a sentence of 22 years of imprisonment. Between 2017 and February 2018, a total of 197 judicial rulings were made on the trafficking of persons for commercial sexual exploitation, of which 69 concerned minors. However, the Committee notes the absence of information on the penalties imposed as a result of these court rulings.

The Committee also notes the action taken by the national police force in relation to the recording of cases of sexual exploitation. The department specialized in children and young persons of the national civil police currently has three protocols respecting police intervention in procedures involving children and young persons, so that appropriate action can

be taken during procedures involving girls, boys and young persons who are victims of sexual exploitation. ***The Committee once again requests the Government to pursue its efforts to ensure that thorough investigations and robust prosecutions are carried out against those responsible for trafficking of children under 18 years of age for commercial sexual exploitation, and that effective and sufficiently dissuasive penalties are imposed in practice. It requests the Government to continue providing detailed information, disaggregated by age and gender, on the number of investigations, prosecutions and convictions of persons engaged in the sale and trafficking of children under 18 years of age for commercial sexual exploitation. Please provide information on the number and nature of the penalties imposed.***

Articles 3 and 5. Worst forms of child labour and monitoring mechanisms. Clause (d). Hazardous types of work. Production and handling of explosive materials and products and labour inspection. In its previous comments, the Committee noted the reduction in the number of children engaged in the manufacture, preparation and handling of explosive substances and products and fireworks. However, the Committee requested the Government to continue taking the necessary measures to ensure that persons under 18 years of age are not engaged in this sector.

The Committee notes the statistics of the Ministry of Labour for the period between 2015 and 2017, according to which 20,858 young persons were provided with assistance by the Young Workers Protection Unit (UPAT) and were informed of their labour rights and the minimum age for admission to employment. Similarly, the Ministry of Labour and Social Welfare, through the General Labour Inspectorate, carried out 6,686 inspections in 2015 in the agricultural, African palm, hotels and restaurants and fireworks and pyrotechnical games production and distribution sectors. During these inspections, 68 workers under 18 years of age were detected, including 47 young persons between 14 and 17 years of age and 21 children below 13 years of age.

The Committee notes the action taken by the General Labour Inspectorate to ensure that persons under 18 years of age are not engaged in the firework sector. In 2015, out of 750 inspections, one young person was detected in the sector. In 2016, out of 662 inspections by the labour inspection services in the firework sector, two cases were identified of young persons under 18 years of age in the sector, and in 2017, although 534 inspections were made in the firework sector, no cases of child labour were identified. The Committee notes with *interest* the Government's indication in its report that there has been a reduction in the number of persons under 18 years of age engaged in this type of activity, particularly as a result of the operations carried out annually by the labour inspection services.

The Committee notes the Government's statistics on complaint procedures. In 2017, out of 62 complaints, 39 led to a legal proceeding, while in 2018, of the 25 complaints made, 19 led to a legal proceeding. The Committee notes the indications concerning the penalties imposed following labour inspections. Prior to 2016, the Government indicates that it was not possible to monitor strictly the number of penalties imposed to combat child labour. However, the Committee takes due note of Decree No. 7-2017 of June 2017, amending the Labour Code, which empowers the General Labour Inspectorate to impose the corresponding penalties in the event of violations of labour rights. Administrative decisions in relation to penalties are in abeyance, due to a procedure brought before the Comptroller General. ***The Committee requests the Government to continue taking the necessary measures to ensure that persons under 18 years of age are not engaged in this sector. It also requests it to indicate the number of inspections carried out in this sector and the nature of the violations reported and the penalties imposed as a result of the inspections. The Committee also requests the Government to provide information on the reasons why many complaints did not give rise to legal proceedings, and to provide information on the specific measures taken in this respect and the results achieved.***

Article 6. Programmes of action. National Plan of Action to Combat the Commercial Sexual Exploitation of Children. In its previous comments, the Committee noted that the National Plan of Action to Combat the Commercial Sexual Exploitation of Children was being revised, but that the Social Welfare Secretariat was not able to implement the Plan of Action in view of the inadequacy of the budget allocated. The Committee noted that the activities envisaged in the Plan of Action had not been carried out. It also urged the Government to take immediate and effective time-bound measures to combat the commercial sexual exploitation of children under 18 years of age.

The Committee notes from the Government's report that the policy for the judicial protection of girls, boys and young persons was adopted on 8 July 2015 by a plenary session of the Supreme Court of Justice. Its approval was validated by the signature of a declaration by the judicial authorities, the United Nations Children's fund (UNICEF) and the Education Institute for Sustainable Development (IEPADES). The objective of the policy is to have a political and planning document as a basis for strengthening the capacity of judicial officials to ensure the rights of girls, boys and young persons. The Committee also notes the development of an IT system entitled "System for recording measures for girls, boys and young persons" in relation to the commercial sexual exploitation of children and the provision of training for judges of the peace, judges in juvenile courts and magistrates.

The Committee notes that the Secretariat to Combat Sexual Violence, Exploitation and Trafficking in Persons (SVET) has implemented an Inter-Institutional Action Protocol for an immediate response to cases of sexual exploitation of children and young persons in tourism. The Government also emphasizes the implementation of the NO PERMIT campaign, through which personnel in the tourism sector have undergone awareness-raising, the "Do not trust grooming, Online seduction" campaign, as well as the Government's participation in the WePROTECT Global Alliance to bring an end to sexual exploitation of children online. ***The Committee requests the Government to continue taking immediate and***

effective time-bound measures to combat the commercial sexual exploitation of children under 18 years of age. It requests the Government to continue providing information on this subject.

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from these forms of labour and ensuring their rehabilitation and social integration. Commercial sexual exploitation and trafficking for that purpose. In its previous comments, the Committee noted that a public policy to combat trafficking in persons and for the comprehensive protection of victims 2014–24 had been prepared by the Inter-Institutional Committee to Combat Trafficking in Persons (CIT) and adopted by Executive Decision No. 306-2014. It requested the Government to provide information on the measures adopted or envisaged in the context of the implementation of the public policy with a view to combating trafficking in persons and ensuring comprehensive protection for victims (2014–24), the Inter-Institutional Protocol and the road map.

The Committee notes the Government's statistical data, according to which, in 2016, child victims of trafficking were mainly intended for labour exploitation (153 victims, most of whom were between 3 and 17 years of age), sexual exploitation (28 victims, mainly between 12 and 17 years), and forced begging (19 victims, mainly between 3 and 14 years of age). In 2017, there were 99 child victims, mainly engaged in labour exploitation (54 victims, mainly between 3 and 17 years of age) and sexual exploitation (31 victims, mainly between 12 and 17 years of age), while there were fewer child victims of forced begging. The Committee also notes the complaints lodged by the Directorate of the Office of the Prosecutor for children and young persons with the Office of the Public Prosecutor concerning trafficking in children, which numbered 154 in 2016 and 281 in 2017. Furthermore, the operational unit of the Alba-Keneth alarm system of the Office of the Public Prosecutor has been involved since 2010 in seeking and identifying disappeared or abducted children and young persons. Between 2015 and 2017, the alarm system identified 77 cases of girls and 10 cases of boys, most of whom were between 12 and 17 years of age.

The Committee notes from the Government's report the various types of action taken for the prevention of trafficking in persons and the protection of children. The child care programme, entitled "Community Households", of the Presidential Secretariat for Social Work (SOSEP), which has been active since 1993, has the objective of facilitating the comprehensive development of girls and boys under 7 years of age. In 2016, a total of 11,879 children, compared with 2,889 children in 2017, benefited from its services. Furthermore, the SVET made efforts to reinforce comprehensive care for victims in its three temporary shelters, particularly by reinforcing comprehensive care programmes with medical, psychological and social assistance, assistance for the development of a life project, technical and vocational training, academic education, educational support, nutritional care and accommodation. The shelters have multidisciplinary teams of professionals who provide services to victims of trafficking in persons. Between 2015 and 2017, a total of 1,079 children benefited from these services.

The Committee notes the reactivation and reinforcement by the SOSEP of departmental networks to combat sexual violence, exploitation and trafficking in persons which have been established by departmental governments, municipal authorities, the social sector and public institutions. The Committee notes that the SVET has developed tools, including a register of social assistance, a collection of instruments relating to trafficking in persons and a guide on the identification of victims of trafficking in persons. According to SVET statistics, the Government has carried out action to provide care and protection to 577 children and young persons who are victims of trafficking between 2015 and 2017. ***While noting the measures taken by the Government, the Committee requests it to pursue its efforts to prevent the engagement of children in the worst forms of child labour and to remove them from such forms of labour, and particularly to prevent them from becoming victims of commercial sexual exploitation or trafficking for this purpose. The Committee also requests the Government to continue providing the necessary and appropriate direct assistance for the removal of children from these worst forms of child labour. Finally, the Committee requests the Government to continue providing information on the measures adopted in the context of the implementation of the public policy to combat trafficking in persons and ensure comprehensive protection for victims (2014–24), the Inter-Institutional Protocol and the road map.***

Article 8. International cooperation. Trafficking of children for commercial sexual exploitation. In its previous comments, the Committee noted that, according to the report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/22/54/Add.1, paragraph 107), the Government was implementing a programme of protection and comprehensive assistance for the repatriation and reintegration of children intercepted by the United States and Mexican authorities. The Committee requested the Government to indicate the measures taken to ensure the rehabilitation and social integration of child victims removed from trafficking for commercial sexual exploitation in their country of origin, including under the programme referred to above, and in the context of the implementation of the Inter-Institutional Protocol for the repatriation of victims of trafficking and the activities of the SVET. The Committee also invited the Government to avail itself of ILO technical assistance, particularly for the implementation of the activities of the National Commission for the Eradication of Child Labour (CONAPETI) and the SVET.

The Committee notes the various institutions outside the SVET and the Ministry of Social Affairs which collaborate on cases of trafficking in persons, such as the General Directorate of Migration, the General Directorate of Civil Aviation, the Office of the Human Rights Mediator, the trafficking in persons unit of the national civil police, the Ministry of Foreign Affairs, the Office of the Prosecutor General, the Office of the Public Prosecutor, with the collaboration of the International Organization for Migration (IOM).

With reference to repatriated minors, the Committee notes that in 2016 there were 57 repatriated minors, including 37 boys and 20 girls, of Mexican, El Salvadorian, Nicaraguan and Honduran nationality. In 2017, a total of 76 repatriated minors were recorded, including 51 boys and 25 girls of United States, Honduras, Mexican and El Salvadorian nationality. The Government emphasizes that the flow of migrants was considerably smaller in 2017.

The Committee takes due note of the technical assistance that the Government has received from the ILO for the preparation of the road map, and for its revision, formatting and publication, as well as for the preparation of the report on child labour in Guatemala and for the National Survey of Living Conditions (ENCOVI, 2014), among other initiatives. ***The Committee once again requests the Government to indicate the measures adopted to ensure the rehabilitation and social integration of child victims removed from trafficking for commercial sexual exploitation in their country of origin, within the context of the implementation of the Inter-Institutional Protocol for the repatriation of victims of trafficking and the activities of the SVET. It also requests it to indicate the number of child victims of trafficking who have been repatriated. The Committee invites the Government to continue to avail itself of ILO technical assistance, particularly for the implementation of the activities of the CONAPETI and the SVET.***

The Committee is raising other matters in a request addressed directly to the Government.

Guinea

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted the Government's indication that it had adopted a national social protection policy and established a division, within the National Employment Directorate, responsible for combating child labour. The Committee nevertheless noted that there was no national policy to abolish child labour. The Committee also observed that, according to the 2014 report entitled "The twin challenges of child labour and educational marginalization in the ECOWAS [Economic Community of West African States] region", produced under the Understanding Children's Work (UCW) programme, 35.2 per cent of children aged between 5 and 14 years were working, of whom 33 per cent were in the 5–11 age group and 41.3 per cent in the 12–14 age group. The 2014 UCW report also indicated that 76.2 per cent of working children aged 10–14 years were in agriculture, which is one of the most dangerous sectors and in which they face serious hazards, including the operation of dangerous equipment, exposure to pesticides, heavy loads and excessive physical exertion.

The Committee notes the Government's indication in its report that the role of the Anti-Child Labour, Dialogue and Social Protection Division (Anti-Child Labour Division) is to participate in the preparation of the legislation and regulations relating to child labour, social dialogue and social protection, and the formulation of action plans for eliminating the worst forms of child labour. The Government emphasizes that the abovementioned Division needs more material and financial resources to be fully effective. The Committee notes that, according to the final report of the Multiple Indicator Cluster Survey (MICS) conducted by the National Institute of Statistics in 2016 and published in July 2017, a total of 40 per cent of children between 5 and 14 years of age are working, of whom 33.8 per cent are in the 5–11 age group and 46.3 per cent are in the 12–14 age group, and that 28 per cent of children between 5 and 14 years of age are working under dangerous conditions (page 257). While noting certain measures taken by the Government to combat child labour, the Committee once again expresses its ***deep concern*** at the number of children who are still working below the minimum age of 16 years for admission to work, especially under dangerous conditions. ***The Committee urges the Government to take the necessary steps without delay to ensure that a national policy for the progressive elimination of child labour is adopted and to provide information on progress made in this respect. The Committee also requests the Government to continue providing information on the impact of other measures taken by the Government towards the abolition of child labour and in particular on the Anti-Child Labour Division.***

Article 2(1). Scope of application and labour inspection. The Committee previously noted that, according to the November 2011 National Survey on Child Labour and Trafficking (ENTE), 6 per cent of economically active children between 5 and 17 years of age in Guinea (some 91,940 children) were self-employed workers. It noted that the Children's Code prohibited an employer from allowing a child under the age of 16 years to perform work without having first obtained the consent of the person exercising parental authority (section 412) but that it did not appear to impose a minimum age for admission to employment for children working on their own account. The Government indicated that the resources at the disposal of the labour inspectorate would be strengthened to ensure the effective monitoring of the situation of children working on their own account and children working under dangerous conditions. The Government also referred to certain measures taken to strengthen the labour inspectorate, such as the provision of essential human, material and financial resources to ensure its normal functioning, the establishment of a training programme for new labour inspectors, and the development, with ILO support, of methodological guidelines for labour inspection. In its previous comments on the Worst Forms of Child Labour Convention, 1999 (No. 182), the Committee noted that section 137(7) of the Labour Code of 2014 established penalties for any violation of the provisions of the chapter relating to child labour. In the same comments, the Committee also noted that the United Nations Committee on the Rights of the Child (CRC) reiterated its concern at the large number of working children, particularly in the informal economy, agriculture, fishing and domestic work.

The Committee notes that the Government has not provided any information on the strengthening of the capacities of the labour inspectorate. It notes that the annual statistics for 2016 and 2017 of the Gender, Childhood and Morals Protection Office record only seven and 11 cases of child labour, respectively. ***The Committee strongly encourages the Government to strengthen the capacities of the labour inspectorate so that it can adequately monitor and detect cases of child labour, particularly involving children working in the informal economy, on their own account, or in hazardous work. The Committee also requests the Government to provide information on the practical implementation of inspections conducted by labour inspectors with regard to child labour, including information on the number of offences reported and extracts from labour inspection reports.***

Article 2(3). Age of completion of compulsory schooling. In its previous comments, the Committee noted the Government's indication that compulsory schooling in Guinea was only imposed for primary school, namely up to the age of 13 years. However, the Committee observed that the minimum age for admission to work specified by Guinea when ratifying the Convention was 16 years. The Committee noted that, despite the significant progress achieved in relation to school attendance and equity in education, a considerable number of children who had not yet reached the minimum age for admission to employment still did not attend or had ceased to attend school and that, in parallel, the proportion of economically active children was rising with age. In this regard, the Committee noted that, according to the 2014 UCW report, the attendance gap between working and non-working children is particularly pronounced in Guinea (22 percentage points).

The Committee notes that the Government has not provided any information on this matter. It notes that Act No. 2016/059/AN of 26 October 2016 issuing the Penal Code of the Republic of Guinea establishes the penalty of a fine for persons exercising parental authority who, without good reason, do not oblige their children to attend school (section 956). It notes that the age of completion of compulsory schooling, fixed at 13 years, is not linked to the minimum age of 16 years for admission to work. Referring to the 2012 General Survey on the fundamental Conventions (paragraph 371), the Committee once again observes that if compulsory schooling comes to an end before children are legally entitled to work, a vacuum may arise which regrettably opens the door for the economic exploitation of children. ***Recalling that compulsory schooling is one of the most effective means of combating child labour, the Committee strongly encourages the Government to take the necessary steps to make education compulsory up to the minimum age for admission to employment, namely 16 years. It also once again requests the Government to provide a copy of the national legislation applicable to education.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Sale and trafficking of children. In its previous comments, the Committee noted that the Children's Code of 2008 prohibited trafficking in persons, including children, for sexual or labour exploitation, and that anyone who engaged in or was an accomplice to trafficking in children would be liable to imprisonment of three to ten years and a fine of 1–3.5 million Guinean francs (GNF) (US\$110–400). The Committee also noted with concern that no convictions had been handed down between 2011 and 2015, particularly in relation to cases of trafficking of children for sexual exploitation. It noted the Government's statement that a Bill prohibiting child labour and trafficking was being drawn up. The Government indicated that the penal part of the aforementioned Bill had been referred to the Ministry of Justice to be incorporated into the new Penal Code. In this regard, the Committee asked the Government to ensure that the Bill prohibiting child labour and trafficking would be adopted as soon as possible.

The Committee notes with *interest* the adoption in 2016 of Act No. 2016/059/AN issuing the Penal Code, section 323 of which prohibits trafficking in persons for economic and sexual exploitation. The Committee notes that section 324 provides that any person guilty of trafficking a minor shall be liable to five to ten years' imprisonment and a fine of GNF100 million (nearly \$11,000). However, the Committee notes the annual statistics of the Office for the Protection of Gender, Childhood and Morality (OPROGEM) provided with the Government's report, indicating that four children under 18 years of age were victims of trafficking in 2017. It notes the Government's indication that the Central Office for Combating Organized Crime (OCLCO), which includes the Anti-Trafficking Division, has recorded only one case of international trafficking of children in the last two years. The Committee notes the Government's indication, in its report to the United Nations (UN) Human Rights Committee (HRC), in October 2017, that arrests are often made in relation to child trafficking but few cases have resulted in convictions by the courts (CCPR/C/GIN/3, paragraph 242). ***Recalling that the best legislation only takes on real value if it is applied, the Committee urges the Government to take the necessary steps to ensure the effective application of Act No. 2016/059/AN issuing the Penal Code, indicating the number of children who are victims of trafficking and the number and nature of convictions and penalties imposed.***

Articles 3(d), and 4(1) and (3). Determination and revision of the list of hazardous types of work. The Committee previously noted the Government's indication that, with regard to the Bill prohibiting child labour and trafficking, the part relating to the worst forms of child labour had been examined by the Labour and Social Legislation Advisory Committee in 2015, and the revised list of hazardous types of work had been drawn up.

The Committee notes the Government's indication that the Bill revising the list of hazardous types of work prohibited for children has not been adopted yet. It notes that the Labour Code prohibits hazardous work for children

under 18 years of age (section 137) and that the Children's Code of 2008 prohibits certain types of work for children under 18 years of age (chapter V). The Committee notes the Government's indication, in its report on the Minimum Age Convention, 1973 (No. 138), that the Anti-Child Labour, Dialogue and Social Protection Division (Anti-Child Labour Division) is going to resume the process for signing a draft order prohibiting hazardous work for children and establishing the list of hazardous types of work. ***The Committee expresses the firm hope that the Bill prohibiting child labour and the revised list of hazardous types of work will be adopted as soon as possible and requests the Government to send copies of the texts when they have been adopted.***

Article 5. Monitoring mechanisms and application of the Convention in practice. Hazardous work. The Committee previously noted that, according to the UN Committee on the Rights of the Child (CRC), large numbers of children were working in mining, agriculture and the fishing industry in dangerous conditions and were obliged to work excessively long hours. The CRC added that girls, some as young as 5 years of age, were employed as domestic workers and carried heavy loads, often without pay, and were targets of psychological, physical and sexual violence. The Committee notes the Government's indication that OPROGEM has the mandate of formulating, planning and monitoring all activities, programmes and policy measures for safeguarding vulnerable population groups and protecting morality. It asked the Government to provide information on OPROGEM's activities to combat the worst forms of child labour.

The Committee notes the Government's indications that the OCLCO, which includes the Anti-Trafficking Division, has the mandate of investigating the perpetrators of organized crime, identifying and prosecuting them. The OCLCO action plan for the 2019–21 period provides, inter alia, for strengthening staff numbers, setting up operational units on the ground, and identifying locations where the worst forms of child labour are practised, especially mines, farms, industrial establishments, vehicle repair garages, carpentry workshops and Koranic schools, with a view to identifying the perpetrators of the worst forms of child labour. The Committee notes that the Government indicates that OPROGEM's work also involves seeking information, gathering proof and arresting the perpetrators of offences in relation to its area of competence. It also notes the Government reference, in its report to the HRC in October 2017, to the continuing exploitation of children, despite legislative and regulatory progress (CCPR/C/GIN/3, paragraph 107). The Committee notes that, according to the final report of the Multiple Indicator Cluster Survey (MICS) conducted by the National Institute of Statistics (INS) in 2016 and published in July 2017, more than one in four children (26.5 per cent) under 18 years of age are working under dangerous conditions (page 257). ***The Committee requests the Government to take the necessary steps to strengthen the capacities of the OCLCO and OPROGEM for monitoring and combating hazardous child labour and to provide information in this respect. In particular, it requests the Government to provide information on the number and nature of reported offences, prosecutions, convictions and penalties imposed in cases involving hazardous child labour.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (e). Preventing the engagement of children in the worst forms of child labour and giving special attention to the situation of girls. Ensuring access to free basic education. The Committee previously noted the Government's indication that the education system was short of capacity. The Government also reported several other challenges that impair the quality of education and make access more difficult, such as bad sanitary conditions in schools, the inadequacy of infrastructure and training, the poor quality of teaching and the persistence of certain socio-cultural stereotypes and obstacles which hamper universal school enrolment, particularly for girls. In this regard, the CRC observed not only a major gender gap in school enrolment but also geographical disparities. The Committee noted that, according to the 2014 report *The twin challenges of child labour and educational marginalization in the ECOWAS* [Economic Community of West African States] region, produced under the Understanding Children's Work (UCW) programme, at least one third of working children did not attend school. The difference in school attendance rates for working and non-working children was particularly high (32 per cent). UNESCO indicated that in 2013 the net enrolment rate in primary education was 75.1 per cent and in 2012 the gross enrolment rate in secondary education was 38.1 per cent.

The Committee notes that the Government has not provided any information in this respect. It notes the Government's indication in its report to the CRC in August 2017 that statistics for primary education for 2013–14 showed little change by comparison with 2012–13. Moreover, between 1999 and 2014, there was no increase in infrastructure and the number of pupils per classroom barely changed (CRC/C/GIN/3-6, paragraphs 104 and 105). UNESCO points out, in the *Global Education Monitoring Report 2017–18*, that there is limited access to drinking water and electricity in primary schools in the country (page 226). The Committee also notes that, according to the MICS final report of 2017, almost two out of five children (39.7 per cent) do not attend school. In 2016, the primary education completion rate was 55.7 per cent for girls, compared with 66.5 per cent for boys (page 239). The gross enrolment rate in secondary education was 42.3 per cent for 2016 and the gender parity index in secondary education stood at 0.68. ***Considering that access to education and school attendance are key in preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to intensify its efforts to improve the functioning of the education system in the country. In this regard, it requests the Government to take steps to increase the school enrolment, attendance and completion rates at both the primary and secondary levels, giving particular attention to the situation of girls. The Committee requests the Government to provide information on the measures taken and the results achieved, including statistics on school attendance and completion rates.***

Clause (b). Necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Talibé children. The Committee noted previously that families entrust their children at a young age to a spiritual guide (*marabout*) to teach them religion. In return, the children are obliged to perform various tasks, including begging. The Committee noted that the Children's Code of 2008 provided that any person who incites or compels a child to engage in begging shall be liable to imprisonment of three months to one year and a fine of GNF50,000–200,000 (US\$5.50–22).

The Committee notes the adoption in 2016 of Act No. 2016/059/AN issuing the Penal Code, which provides that any person who exploits begging undertaken by a minor shall be liable to three to five years' imprisonment and/or a fine of GNF1 million–5 million (US\$550–1,100). However, the Committee observes the Government's indication, in its report to the HRC in 2017, that despite legislative and regulatory progress, begging undertaken by children remains a major concern in Guinea (CCPR/C/GIN/3, paragraph 107). It further notes that the CRC expressed serious concern at the limited number of investigations, prosecutions and convictions for offences connected with forced begging (CRC/C/OPSC/GIN/CO/1, paragraph 32). ***The Committee urges the Government to adopt the necessary time-bound measures to remove children under 18 years of age from begging further to the prosecution of marabouts under the Penal Code, and to provide information in this regard. It once again encourages the Government to establish a time-bound programme to ensure that child beggars under 18 years of age are rehabilitated and socially integrated.***

The Committee is raising other matters in a request addressed directly to the Government.

Guyana

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Article 1 of the Convention. National policy for the elimination of child labour. National action plan. The Committee previously noted that the Government reiterated its commitment to adopting a national policy designed to ensure the effective abolition of child labour in the country since 2001. The Committee also noted that, although the Government undertook a number of policy measures aimed at tackling child labour through education programmes, in particular under the ILO–IPEC project entitled “Tackle child labour through education” (TACKLE project), it continued to indicate that a National Plan of Action for Children (NPAC) was under development. The Committee notes that the Government's report does not contain any new information in this regard. ***The Committee therefore once again urges the Government to strengthen its efforts to finalize the NPAC and to provide a copy of it in the very near future. Furthermore, noting the Government's previous indication that the National Steering Committee on Child Labour – which had initiated and drafted a national action plan to eliminate and prevent child labour – is no longer functioning, the Committee requests the Government to provide updated information on the measures taken or envisaged to finalize this process.***

Article 3(3). Authorization to work in hazardous employment from the age of 16 years. In its previous comments, the Committee observed that section 6(b) of Act No. 9 of 1999 on the employment of young persons and children (hereafter Act No. 9 of 1999) grants the Minister discretion to authorize, through regulations, the engagement of young persons between the ages of 16 and 18 years in hazardous work. The Committee also observed that, although sections 41 and 46 of the Occupational Safety and Health Act, 1997 (OSHA), aim to prevent young persons from undertaking employment activities that could impede their physical health or emotional development, the Government had identified difficulties in monitoring and enforcing those provisions. The Government accordingly indicated that Act No. 9 of 1999 would be amended to ensure that the protections afforded under the Act are extended to all young persons under the age of 18 years.

The Committee noted that the Government's previous report did not contain any new information and merely stated that no ministerial regulations had been issued and that the OSHA provisions ensure that young persons between 16 and 18 years who are employed in hazardous work receive adequate specific vocational training. However, the Committee noted the inadequate measures for monitoring and enforcing the OSHA provisions and that, notwithstanding the significant number of children involved in hazardous work, only three such cases had been reported to the Government's reporting mechanism.

The Committee notes with ***deep concern*** that the Government's report provides no new information concerning the process of amending Act No. 9 of 1999, despite its repeated commitment over the years to do so. It once again draws the Government's attention to paragraph 381 of the 2012 General Survey on the fundamental Conventions, which stresses that compliance with *Article 3(3)* of the Convention requires that any hazardous work for persons from the ages of 16 to 18 years be authorized only upon the conditions that the health, safety and morals of the young persons concerned are fully protected and that they, in practice, receive adequate specific vocational training. ***The Committee accordingly once again urges the Government to take measures to amend Act No. 9 of 1999 in the near future so as to ensure conformity with Article 3(3) of the Convention by providing adequate protection to young persons between the ages of 16 and 18, and to supply a copy of the amendments once they have been finalized. Moreover, recalling the Government's indication that efforts are under way with the tripartite partners to include additional areas of work on the hazardous work list, the Committee requests the Government to supply a copy of this amended list once it becomes available.***

Article 9(3). Keeping of registers. Following its previous comments, the Committee notes the Government's indication that section 86(a) of the OSHA, Chapter 99:10, provides for the obligation of employers of industrial establishments to record, and keep in a register, the prescribed particulars of all employees under the age of 18 years. ***The Committee requests that the Government indicate which provisions establish the same obligation for the employment of young persons under 18 years of age in non-industrial undertakings.***

Labour inspection and practical application of the Convention. The Committee previously noted the results of the Multiple Cluster Indicator Survey identifying a high percentage of working children in the country. The Committee also noted the indication of the International Trade Union Confederation (ITUC) that labour inspectors fail to effectively enforce the applicable legislation and that child labour was particularly prevalent in the informal economy.

In response, the Government simply indicated that its labour inspectors routinely conduct workplace inspections and that there had been no evidence of child labour. Nevertheless, the Committee noted a three-year programme which aimed to, among others, strengthen the capacity of national and local authorities in the formulation, implementation and enforcement of the legal framework on child labour and which would include a focus on child labour in the informal economy. **Noting the absence of information provided in this respect, the Committee once again requests that the Government strengthen its efforts to combat child labour, including in the informal economy, and to provide information on the results achieved in this regard. Furthermore, recalling that the Government is establishing a baseline survey on child labour, the Committee again requests the Government to provide information concerning the results of the survey.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Haiti

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2007)

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP) received on 30 August 2017 and 29 August 2018, concerning the weakness of the law enforcement bodies in combating trafficking in children, and the absence of rehabilitation and reintegration measures for *restavèks* children (child domestic workers).

The Committee notes the Government's communication received on 30 October 2018 in which it informs the Committee that, further to the conclusions of the Conference Committee, it has requested ILO technical assistance with a view to helping in the presentation of the reports due, strengthening the inspection services, consolidating social dialogue for the continuation of social reforms, and addressing the other points raised by the Conference Committee. The Government adds that it hopes to receive the requested assistance before the next session of the International Labour Conference. The Committee hopes that this technical assistance will be provided without delay.

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

The Committee notes that the Law No. CL/2014-0010 of 2 June 2014 on the fight against trafficking in persons has been adopted.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. In its previous comments, the Committee noted that, according to the report of the United Nations Special Rapporteur on contemporary forms of slavery, a new trend has been observed with regard to the employment of children as domestic workers (designated by the Creole term *restavèks*). This consists of the emergence of persons who recruit children from rural areas to work as domestic servants in urban families and outside the home in markets. The Special Rapporteur noted that this new trend has caused many observers to describe the phenomenon as trafficking, since parents are now handing their children over to strangers, whereas previously they entrusted the children to relatives. The Committee noted the observations of the International Trade Union Confederation (ITUC) that smuggling and trafficking in children was continuing, particularly towards the Dominican Republic. The ITUC has gathered serious eyewitness reports of sexual abuse and violence, even including murder, against young women and young girls who have been trafficked, particularly by Dominican military personnel and expressed concern at the fact that there does not appear to be a law under which those responsible for trafficking in persons can be brought to justice and that a draft legislation was to be adopted by the Parliament.

The Committee notes with **interest** the adoption of Law No. CL/2014-0010 of 2 June 2014 on the fight against trafficking in persons. The Law provides that trafficking in children, meaning the procuring, enlistment, transfer, transportation, accommodation or reception of a child for the purposes of exploitation constitutes an aggravating circumstance giving rise to life imprisonment (sections 11 and 21). The Committee notes, however, that, according to its 2014 concluding observations (CCPR/C/HTI/CO/1, paragraph 14), the Human Rights Committee remains concerned about the continuing exploitation of *restavèks* children and the lack of statistics on, and results from, the investigations into the perpetrators of trafficking. Similarly, the Committee notes that, according to the 2015 report of the independent expert on the human rights situation in Haiti (A/HRC/28/82, paragraph 65 with reference to A/HRC/25/71, paragraph 56), the *restavèks* phenomenon is the consequence of the weakness of the rule of law and those children are systematically unpaid, subjected to forced labour, and exposed to physical and/or verbal violence. Their number was estimated at 225,000 by UNICEF in 2012. **The Committee, therefore, urges the Government to take the necessary measures to ensure the effective implementation of Law No. CL/2014-0010, in particular in ensuring that in-depth investigations and effective prosecutions are completed with regard to perpetrators of trafficking of children under 18 years of age. The Committee also requests the Government to provide statistical data on the application of the law in practice, including the number and nature of the violations reported, investigations, prosecutions, convictions and the penal sanctions applied.**

Clauses (a) and (d) Forced or compulsory labour and hazardous work. Child domestic labour. In its previous comments, the Committee noted the situation of hundreds of thousands of *restavèk* children who are often exploited under conditions that qualify as forced labour. It noted that in practice many of these children, some of whom are only 4 or 5 years old, are the victims of exploitation, are obliged to work long hours without pay, face all kinds of discrimination and bullying, receive poor lodging and food and are often victims of physical, psychological and sexual abuse. In addition, very few of them attend school. The Committee also noted the repeal of Chapter IX of Title V of the Labour Code, relating to children in service, by the Act of 2003 for the prohibition and elimination of all forms of abuse, violence, ill-treatment or inhumane treatment of children (the Act of 2003). It noted that the prohibition set out in section 2(1) of the Act of 2003 covers the exploitation of children, including servitude, forced or compulsory labour, forced services and work which by its nature or the circumstances in which it is carried out is likely to harm the health, safety or morals of children, without however establishing penalties for violations of its provisions. The Committee noted that the repealed provisions included section 341 of the Labour Code, under which a child from the age of 12 years could be entrusted to a family to be engaged in domestic work. The Committee nevertheless observed that section 3 of the Act of 2003 provides that a child may be entrusted to a host family in the context of a relationship of assistance and solidarity.

The Committee noted previously that the Special Rapporteur, in her report, expressed deep concern at the vagueness of the concept of assistance and solidarity and considered that the provisions of the Act of 2003 allow the practice of *restavèk* to be

perpetuated. According to the report of the Special Rapporteur, the number of children working as *restavèk* is between 150,000 and 500,000 (paragraph 17), which represents about one in ten children in Haiti (paragraph 23). Following interviews with *restavèk* children, the Special Rapporteur ascertained that all of them were given heavy workloads by their host families, which were often incompatible with their full physical and mental development (paragraph 25). Moreover, the Special Rapporteur was told that these children are often ill-treated and subjected to physical, psychological and sexual abuse (paragraph 35). Representatives of the Government and of civil society pointed out that cases of children being beaten and burnt were routinely reported (paragraph 37). The Committee noted that, in view of these findings, the Special Rapporteur described the *restavèk* system as a contemporary form of slavery.

The Committee notes the ITUC's allegations that the earthquake of 12 January 2010 resulted in an abrupt deterioration in the living conditions of the population of Haiti and increasingly precarious working conditions. According to the ITUC, an increasing number of children are engaged as *restavèk* and it is highly probable that their conditions have deteriorated further. Many of the eyewitness accounts gathered by the ITUC refer to extremely arduous working conditions, and exploitation is often combined with degrading working conditions, very long hours of work, the absence of leave and sexual exploitation and situations of extreme violence.

The Committee notes the Government's recognition that the engagement of *restavèk* children in domestic work is similar to forced labour. It once again expresses **deep concern** at the exploitation of children under 18 years of age in domestic work performed under conditions similar to slavery and in hazardous conditions. It once again reminds the Government that, under the terms of *Article 3(a) and (d)* of the Convention, work or employment by children under 18 years of age under conditions that are similar to slavery or that are hazardous comprise the worst forms of child labour and, under the terms of *Article 1*, are to be eliminated as a matter of urgency. ***The Committee requests the Government to take immediate and effective measures to ensure in law and practice that children under 18 years of age are not engaged as domestic workers under conditions similar to slavery or in hazardous conditions, taking into account the special situation of girls. In this respect, it urges the Government to take the necessary measures to amend the provisions of the national legislation, and particularly section 3 of the Act of 2003, which allow the continuation of the practice of restavèk. The Committee also requests the Government to take the necessary measures to ensure that in-depth investigations are conducted and effective prosecutions of persons subjecting children under 18 years of age to forced domestic work or to hazardous domestic labour, and that sufficiently effective and dissuasive penalties are imposed in practice.***

Article 5. Monitoring mechanisms. Child protection brigade. The Committee notes the ITUC's allegation that a child protection brigade (BPM) exists in Haiti protecting the borders. However, the ITUC indicates that the corruption of officials on both sides of the border has not been eradicated and that the routes for trafficking in persons avoid the four official border posts and pass through remote locations where more serious situations of abuse against the life and integrity of migrants probably occur.

The Committee notes the Government's indication that the BPM is a specialized police unit which arrests traffickers, who are then brought to justice. However, the Government adds that, during judicial inquiries, procedural issues are often used by those charged to escape justice. The Committee is bound to express **concern** at the weakness of the monitoring mechanisms in preventing the phenomenon of trafficking in children for exploitation. ***The Committee requests the Government to take the necessary measures to strengthen the capacity of the BPM to monitor and combat trafficking in children under 18 years of age and to bring those guilty to justice. It requests the Government to provide information on the measures adopted in this respect and the results achieved.***

Article 7(2). Effective and time-bound measures. Clause (b). Providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Sale and trafficking. In its previous comments, the Committee noted that, according to the United Nations Office on Drugs and Crime report of February 2009: *Global Report on Trafficking in Persons*, no system exists to provide the victims of trafficking with care or assistance, nor are there any reception centres for victims of trafficking. It also noted that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations (CEDAW/CH/CO/7, 10 February 2009, paragraph 26), expressed concern at the lack of reception centres for women and girls who are victims of trafficking.

The Committee notes the ITUC's allegations that there is a public system of care and assistance for persons who are victims of trafficking. The reports gathered by the ITUC indicate that victims are referred to the police forces, which relay them to the Social Welfare and Research Institute (IBESR), which then places them in reception centres.

The Committee notes the Government's indication that a pilot social protection programme was envisaged, but that the earthquake of 12 January 2010 undermined the implementation of the programme. ***The Committee urges the Government to take effective measures for the provision of the necessary and appropriate direct assistance for the removal of child victims of sale and trafficking and for their rehabilitation and social integration. In this respect, it requests the Government to provide information on the number of children under 18 years of age who are victims of trafficking and who have been placed in reception centres through the police forces and the IBESR.***

Clause (d). Identifying and reaching out to children at special risk. Restavèk children. In its previous comments, the Committee noted the existence of programmes for the reintegration of *restavèk* children established by the IBESR in cooperation with various international and non-governmental organizations. It noted that these programmes focus on reintegration in the family setting with a view to promoting the social and psychological development of the children concerned. However, it noted that the Committee on the Rights of the Child, in its concluding observations, had expressed deep concern at the situation of *restavèk* children placed in domestic service and recommended that the Government take urgent steps to ensure that *restavèk* children are provided with physical and psychological rehabilitation and social reintegration services (CRC/C/15/Add.202, 18 March 2003, paragraphs 56 and 57).

The Committee notes the ITUC's indications that it has been informed of initiatives for the reintegration of *restavèk* children implemented, among others, with the support of UNICEF and the International Organization for Migration (IOM). While welcoming these initiatives, the ITUC calls on the Government to ensure that these programmes continue to be combined with measures intended to improve the living conditions of the families of origin of the children.

The Committee notes the Government's indication that cases of the ill-treatment of children in domestic service are taken up by the IBESR, which is responsible for placing them in families for the purposes of their physical and psychological rehabilitation. However, the Government recognizes that there are still only a few such cases. ***The Committee urges the Government to intensify its efforts to ensure that restavèk children benefit from physical and psychological rehabilitation and social integration services in the framework of programmes for the reintegration of restavèk children or through the IBESR.***

Article 8. International cooperation. Sale and trafficking of children. The Committee previously noted that the Ministry of Social Affairs and Labour, in cooperation with the Ministry of Foreign Affairs, was studying the problem of the exploitation of persons in sugar cane plantations in the Dominican Republic and of children reduced to begging in that country, and intends to engage in bilateral negotiations with a view to resolving the situation. It also noted that the CEDAW, in its concluding observations (CEDAW/C/HTI/CO/7, 10 February 2009, paragraph 27), encourages the Government “to conduct research on the root causes of trafficking and to enhance bilateral and multilateral cooperation with neighbouring countries, in particular the Dominican Republic, to prevent trafficking and bring perpetrators to justice”.

The Committee notes once again that the Government’s report does not contain information on this subject. ***It once again requests the Government to provide information in its next report on the progress made in the negotiations for the adoption of a bilateral agreement with the Dominican Republic.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Honduras

Minimum Age Convention, 1973 (No. 138) (ratification: 1980)

The Committee notes the observations of the Honduran National Business Council (COHEP), received on 31 August 2018, with the support of the International Organisation of Employers (IOE), and the Government’s reply to these observations.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the information on the extension of the scope of action by labour inspectors set out in the Code for Children and Young Persons, as revised, and it requested the Government to take the necessary measures to adapt and reinforce the capacities of the labour inspection services. It also requested the Government to provide information on the new legislation on labour inspection which was under preparation.

The Committee notes the COHEP’s observations, according to which the number of labour inspectors is lower than required, particularly for the informal economy, even though the Government has indicated that measures have been taken to reinforce the capacity of labour inspectors. The COHEP indicates that the Regulations of the new Act should be approved by the end of 2018 and that they are being formulated through tripartite consultations. The COHEP emphasizes that it has followed the national plan for child labour in enterprises and that there are no children in the enterprises which are members of the COHEP.

The Committee takes due note from the Government’s report and its reply to the observations of the COHEP of the adoption of the new Decree on labour inspection, Statutory Decree No. 178-2016, by the National Congress of the Republic, which entered into force on 15 March 2017. The new Decree also guarantees the deployment of young workers under decent conditions and prohibits work by children below the minimum statutory age of 14 years. A new administrative procedure has also been established which includes financial penalties of 100,000 lempiras in cases where the labour inspection services detect the presence of children engaged in work below the minimum statutory age of 14 years, or children without the authorization to work. Inspectors are also required to remove children engaged in hazardous types of work for their health and safety. A chapter has been included on advisory technical inspections in the most vulnerable sectors, such as the informal economy, where most child labour is found. Furthermore, since January 2018, an electronic application for the public denunciation of child labour has been developed. Denunciations are referred to labour inspectors so that they can be followed up through inspections.

The Committee notes that, since the entry into force of the new Act, the Government has undertaken 187 labour inspections in 2017 and 76 of the 175 scheduled inspections for 2018. During these inspections, a total of 185 girls and boys were heard and inspectors evaluated the jobs for which authorizations had been requested for young workers in order to verify and confirm that they do not endanger the children.

The Committee notes that the Road map to ensure that Honduras is a country free of child labour was approved as a public policy on child labour by Executive Decrees Nos PCM-11-2011 and PCM-056-2011, which were attached to the report, and that a new strategic planning document for the period 2016–20, prepared with the participation of the main stakeholders, is undergoing approval by the various sectors. This document allows each institution and organization to plan its annual activities in light of the six dimensions of the public policy. It is also based on the Agenda 2030, the Regional Initiative for Latin America and the Caribbean Free of Child Labour and the Alliance for Prosperity Plan, international standards and national regulations. The action taken to combat child labour in the context of the strategic plan as well as the stages of its implementation will be recorded in the results-based management platform. ***The Committee requests the Government to continue providing information on the manner in which the Convention is applied in practice, including in particular statistics on the employment of children under 14 years of age, extracts from the reports of the labour inspection services and information on the number and nature of the violations detected and penalties imposed. Taking into account the strategic plan 2016–20 of the national Road map to ensure that Honduras is a country free of child labour, the Committee requests the Government to provide information on the implementation of the Road map.***

Article 2(1) and (4). Scope of application and minimum age for admission to employment or work. In its previous comments, the Committee noted that, under the terms of section 32(2) of the Labour Code, the authorities responsible for

supervising work by persons under 14 years of age could authorize them to engage in an economic activity if they considered it indispensable for their subsistence or that of their parents or brothers and sisters, and provided that it did not prevent them from attending compulsory schooling. It also noted that, under the terms of section 2(1) of the Labour Code, agricultural and stock-raising undertakings that do not permanently employ more than ten workers are excluded from the scope of application of the Labour Code. It further noted that, under the terms of sections 4 to 6, the Regulations on child labour of 2001 only apply to contractual labour relations. The Government indicated in this respect that a draft revision of the Labour Code had been prepared containing provisions to bring the national labour legislation into conformity with the international Conventions ratified by Honduras. The Committee urged the Government to take the necessary measures to bring the Labour Code and the Regulations on child labour of 2001 into conformity with the Code on Children and Young Persons of 1996. It requested the Government to provide information on the progress achieved in this respect.

The Committee notes, according to the COHEP's observations, that it has not been informed of the fact that the Labour Code is awaiting examination, approval and publication by the National Congress. The representatives of enterprises expressed interest in engaging in a comprehensive reform of the Labour Code, but have not yet been received by the Government. The Committee notes the COHEP's indications that no reform has been discussed in the tripartite Economic and Social Council.

The Committee notes the Government's reply to the COHEP's observations to the effect that in 2014 a discussion was commenced with the social partners, during which workers' organizations expressed reservations regarding the reforms to the Labour Code. The Committee notes the Government's indications that it assumes its commitments and will submit the current reforms for discussion by the Economic and Social Council and prepare a Road map which will make it possible to continue the harmonization of the Labour Code with a view to reaching agreement. Accordingly, the reforms are to be submitted to the National Congress with the prior opinion of the Supreme Court of Justice.

The Committee notes that, according to the Government's report, the reform or revision of the Labour Code is awaiting examination, approval and publication by the National Congress and will be discussed in plenary session. The Committee also notes once again Executive Decree No. PCM-05-2015, adopted by the Government, which is intended to adapt the integration of the National Commission for the Progressive Eradication of Child Labour to the Government structure through a comprehensive approach incorporating other organizations and institutions with similar responsibilities with the objective of articulating, evaluating and guaranteeing the implementation of the national plan through the public policy and the Road map.

The Committee reminds the Government that, under the terms of *Article 2(1)* of the Convention, no one under the age specified shall be admitted to employment or work in any occupation, subject to the exemption set out in *Articles 4 to 8* of the Convention. It also reminds the Government that the Convention applies to all branches of economic activity and covers all types of employment or work, whether or not they are performed within the framework of an employment relationship or a labour contract, and whether or not the employment or work is paid. ***Observing that the Government has been referring to the revision of the Labour Code for over ten years, the Committee once again urges the Government to take the necessary measures to bring the Labour Code and the 2001 Regulations on child labour into conformity with the Code for Children and Young Persons of 1996 so as to ensure that no child under 14 years of age is authorized to work, including children working in agricultural and stock-raising undertakings which do not permanently employ more than ten workers, and those who work on their own account. It once again requests the Government to provide information on the progress achieved in this respect.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the observations of the Honduran National Business Council (COHEP), received on 31 August 2018, with the support of the International Organisation of Employers (IOE), and the Government's reply to these observations.

Articles 3(a) and (b) and 7(1) of the Convention. Trafficking of children for commercial sexual exploitation, use of children for prostitution or for the production of pornography or pornographic performances, and the penalties applied. In its previous comments, the Committee noted with concern the low number of convictions in cases of trafficking and sexual exploitation in relation to the total number of investigations and prosecutions. The Committee urged the Government to intensify its efforts to ensure that the trafficking of persons under 18 years of age for commercial sexual exploitation or for their use in prostitution, the production of pornography or pornographic performances gives rise to in-depth investigations and robust prosecutions and that sufficiently effective and dissuasive penalties are applied in practice.

The Committee notes the COHEP's observations, in which it emphasizes that it is not aware whether detailed information exists on the number of investigations conducted, prosecutions initiated and convictions handed down and expresses concern at the level of commitment of the Government in this respect. The Committee notes the Government's reply to these observations, in which it emphasizes that the Inter-institutional Commission to Combat Trafficking in Persons and Commercial Sexual Exploitation in Honduras (CICESCT) is responsible for statistical data on this subject.

The Committee notes from the Government's report that the CICESCT is responsible for action to prevent and eradicate the crimes of trafficking in persons and commercial sexual exploitation. It is composed of representatives from

31 government institutions and civil society organizations. According to its statistics, in 2017, a total of 138 complaints were received, for all ages, 29 of which concerned commercial sexual exploitation and 109 related to trafficking in persons. A total of 17 persons were convicted to sentences of from four to 15 years of imprisonment and fines of between 75 and 225 times the minimum wage for acts of trafficking in persons and commercial sexual exploitation, and 90 persons are currently undergoing criminal proceedings. The CICESCT indicates that, of a total of 154 victims detected, the main crimes related to exploitation are procuring (56 victims), begging (31 victims) and sexual exploitation (28 victims). With regard to children and young persons, 32 girls and 25 boys have been victims of trafficking in persons and commercial sexual exploitation. While taking due note of this information, the Committee once again notes the low number of convictions, namely 17 convictions for 138 complaints of trafficking in persons and commercial sexual exploitation and a total of 154 victims detected, without taking into account the number of unreported cases.

The Committee notes the information that the CICESCT received a budget of 6 million Honduran lempiras (HNL) (approximately US\$247,000), to combat trafficking in persons and commercial sexual exploitation in 2017, and that this amount has been raised to HNL9 million (or US\$370,500) in 2018. ***The Committee once again urges the Government to intensify its efforts to ensure that the trafficking of persons under 18 years of age for commercial sexual exploitation or for their use in prostitution, the production of pornography or pornographic performances gives rise to in-depth investigations and robust prosecutions and that sufficiently effective and dissuasive penalties are applied in practice. Observing the lack of information disaggregated by age as a basis for a genuine evaluation of the situation of children and young persons in relation to trafficking in persons and commercial sexual exploitation, the Committee requests the Government to provide detailed information, disaggregated by the gender and age of the victims, as well as detailed information on the number of investigations conducted, prosecutions launched and convictions relating to persons under 18 years of age.***

Article 7(2). Effective and time-bound measures. Clause (b). Direct and necessary assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Trafficking and commercial sexual exploitation. In its previous comments, the Committee noted that the Committee on the Rights of the Child had expressed concern that the Government does not have an adequate programme for the physical and psychological rehabilitation and social integration of child victims of sexual exploitation, who are only provided with care by civil society organizations. Recalling that the 2012 Act to combat trafficking contains exhaustive provisions on the protection, assistance and social rehabilitation of victims of trafficking and commercial sexual exploitation, the Committee requested the Government to take immediate and effective measures for the implementation in practice of action for the provision of comprehensive assistance to children and young persons who have been victims of commercial sexual exploitation and trafficking for that purpose.

The Committee notes from the Government's report that the Rapid Response Team (ERI), a specialized operational body of the CICESCT responsible for providing assistance to victims of trafficking and sexual exploitation, assisted 105 victims of commercial sexual exploitation in 2017. The unit to combat the trafficking of children and young persons and commercial sexual exploitation assisted 20 victims. All cases of victims under 18 years of age were coordinated with the Directorate of Children, Young Persons and the Family (DINAF), in addition to the 42 children which it assisted without passing through the ERI. Victims under 18 years of age are protected in the temporary centre of the DINAF and other certified centres, where medical and psychological examinations are carried out and in which social and legal support is provided, with the objective of evaluating each case with a view to the adoption of appropriate protection measures.

The Committee notes the ERI's intervention protocol for the provision of care to victims of trafficking and commercial sexual exploitation, as approved by Decree No. 488-2016. It establishes instructions for the identification of victims, the provision of first aid within the first 72 hours, the corresponding referrals for the provision of comprehensive care and the coordination of the reintegration process. With regard to follow-up, the ERI has also assisted 120 victims through home visits, psychological assistance, legal advice and social assistance support for social integration. Furthermore, the CICESCT and the Ministry of Development and Social Inclusion, through the Government programme *Vida Mejor* and the *Crédito Solidario* programme, have provided food bags and loans to a number of victims to help them open small shops. The ERI also works in cooperation with the Ministry of Education for the reintegration of victims into the education system.

The Committee notes that, according to the Government's report, it has not been able to guarantee 100 per cent quality services and coverage, as service quality in the country is still a challenge. ***The Committee requests the Government to continue taking measures for the provision of comprehensive assistance to children and young persons who have been victims of commercial sexual exploitation and trafficking for that purpose. It requests the Government to provide detailed information on the number of children who have been removed from trafficking and commercial sexual exploitation and who have benefited from rehabilitation measures, and the results achieved, particularly in the context of the National Plan of Action 2015–20.***

Article 8. International and regional cooperation. Commercial sexual exploitation and trafficking for that purpose. In its previous comments, the Committee noted that Honduras was participating in the Regional Coalition to Combat Trafficking and Smuggling of Persons and the Regional Commission with a view to providing and accelerating the exchange of information on the cases reported in the various countries. The Committee requested the Government to

provide detailed information on the results achieved in the framework of the implementation of these various agreements, and particularly on the number of children repatriated to their countries of origin.

The Committee notes that the Government continues to be a member of the Regional Coalition to Combat Trafficking and Smuggling of Persons and that, as a result of the choice of the member countries, it is currently presiding over this regional initiative for the period November 2017 to November 2018, with responsibility for the management of the Coalition. The Coalition participated in the development of a protocol on the repatriation of victims of trafficking in persons, which is applicable in the member countries of the Coalition. In 2017, the Coalition focused on a regional diagnosis, the new protocol, the system of surveillance, the coverage of countries without a protocol and national repatriation. The Government indicates that it participated in regional meetings and is a member of the subcommittee for the revision of the Coalition's strategic, operational and follow-up plan.

The Committee notes the various types of support from which the Government has benefited to combat trafficking in persons and sexual exploitation, such as the strengthening by the United Nations Office on Drugs and Crime (UNODC) of the capacities of officials in first-line services for the provision of immediate assistance to victims of trafficking and sexual exploitation. The International Organization for Migration (IOM) has also provided support to the Government in transferring the victims of trafficking who have returned to Honduras. In this regard, two victims were repatriated from France and Guatemala and reintegrated into their respective families, while six other victims received assistance from the Secretariat for Foreign Relations and International Cooperation with a view to their assisted return from Guatemala, Mexico, Argentina and Belize, all of whom were reintegrated into their families.

The Committee notes that in 2017 direct coordination was established with the police authorities of Belize to conduct investigations in Honduras with a view to strengthening judicial proceedings in the country, and that of four cases of trafficking for sexual exploitation, three gave rise to prosecutions. In 2017, the police in Belize arrested a person responsible for the trafficking of five women of Honduran nationality. That person is currently in preventive detention and has been charged by the public prosecutor of the crime of trafficking of persons under conditions of forced labour and commercial sexual exploitation (No. 136-2017). The Committee notes the Government's participation in the following regional activities: the Commission of Police Chiefs and Directors of Central America, Mexico, the Caribbean and Colombia; the Regional Action Group of the Americas (GARA) for the "prevention of sexual exploitation of children, in travel and tourism", an intergovernmental body which promotes action to combat sexual exploitation; and the membership of Honduras in the "We PROTECT Global Alliance" for the protection of children against sexual abuse online. *The Committee requests the Government to continue its efforts at the international and regional levels to combat the commercial sexual exploitation of children and their trafficking for that purpose. It requests it to continue providing detailed information on the results achieved in the context of the implementation of these agreements, and particularly on the number of children repatriated to their country of origin, disaggregated by gender, age and nationality.*

The Committee is raising other matters in a request addressed directly to the Government.

Indonesia

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 1 of the Convention. National policy, labour inspection and application of the Convention in practice. In its previous comments, the Committee noted from the 2009 Indonesia Child Labour Survey that there were approximately 1.76 million children engaged in child labour in Indonesia. Most of them were employed in agriculture, including forestry, hunting and fishery (57 per cent of all working children aged 5–17). The Committee also noted the Government's information on the various measures taken to prevent children under the age of 15 from engaging in child labour, such as the Child Social Welfare Programme; the provision of tuition assistance to children who were withdrawn through the Reduction of Child Labour Programme; a conditional cash transfer programme to improve educational access for children from poor families; and a "Roadmap towards a child labour free Indonesia in 2022" (the Roadmap 2022) which was adopted in 2014.

The Committee notes the Government's information in its report, on its continued efforts in preventing child labour. In this regard, the Committee notes that the Government, through the implementation of Reducing Child Labour as part of Aspiring Family Programme, has removed 105,956 children from child labour, from 2008 up to 2018. It also notes that the Roadmap 2022 has been extended to 12 provinces and the Indonesia Free Child Labour Campaign has reached the stakeholders in three provinces. Moreover, measures have been taken to reinforce labour inspections by: (i) requiring employers to carry out mandatory labour reporting; (ii) carrying out preliminary inspections and thereafter regular inspections within the stipulated period; (iii) conducting special inspections based on public complaints, company requests and /or order from the head of the labour inspectorate; and (iv) conducting re-inspection based on the evaluation of the inspection report of the head of the labour inspectorate. However, the Committee notes that the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child, in their concluding observations of 19 June 2014 and 10 July 2014 respectively, expressed concern at the high prevalence of child labour in the country, including in hazardous work (CRC/C/IDN/CO/3-4, paragraph 71). It also notes that the Committee on the Economic, Social and Cultural Rights expressed concern that the measures taken in 2014 which aimed to reach out to 15,000 children, were not commensurate with the extent of the problem which concerns millions of children (E/C.12/IDN/CO/1, paragraph 23).

While noting the steps taken by the Government, the Committee urges it to strengthen its efforts to ensure the elimination of child labour. It requests the Government to continue to provide information on the measures taken in this regard, including expansion of educational policies and awareness-raising measures, and on the results achieved. The Committee also requests the Government to strengthen the labour inspectorate at the national and local levels to help monitor the situation of child labour particularly in the agricultural sector. Lastly, it requests the Government to provide information on the manner in which the Convention is applied in practice, including information from the labour inspectorate on the number and nature of contraventions reported, violations detected and penalties applied.

Article 2(1). Scope of application. 1. *Informal economy.* The Committee previously noted the indication of the International Trade Union Confederation (ITUC) that child labour was widespread in Indonesia, taking place mostly in informal, unregulated activities, such as street vending and in the agricultural and domestic sectors. The Committee also noted that Act No. 13 of 2003 (Manpower Act) excluded from its application children who are engaged in self-employment or working without a clear wage relationship. It further noted the information from the 2009 Indonesia Child Labour Survey Report, that out of all working children between the ages of 5–12, 12.7 per cent were self-employed, and 82.5 per cent were unpaid family workers. The Committee noted that a draft government regulation protecting children in the informal economy was elaborated pursuant to section 75 of the Manpower Act and that the discussions among ministries and sectors were under way.

The Committee notes the Government's information that the unit for the supervision of the worst forms of child labour (BPTA) established by the Ministry of Manpower, supervises and monitors the implementation of child labour laws in the informal economy and through the Reducing Child Labour as part of Aspiring Family Programme, removes such children from child labour. The Committee observes that the Government's report does not contain any information with regard to the adoption of the draft regulation protecting children in the informal economy. *Noting once again that the vast majority of children working under the minimum age do not benefit from the protection of the Manpower Act, the Committee once again urges the Government to take the necessary measures to ensure the finalization and adoption of the draft regulation protecting children in the informal economy in the very near future. It requests the Government to provide information on any progress made in this regard. The Committee also requests the Government to provide information on the number of children working in the informal economy who have been removed through the Reducing Child Labour as part of Aspiring Family Programme as well as the number of children working in the informal economy who have been identified and prevented by the unit for the supervision of the worst forms of child labour.*

2. *Domestic work.* *With regard to the protection of children engaged in domestic work, the Committee requests the Government to refer to its detailed comments under the Worst Forms of Child Labour Convention, 1999 (No. 182).*

Article 9(3). Keeping of registers. In its previous comments, the Committee noted that there appeared to be no provisions in the Manpower Act prescribing that a register be kept and made available by the employer. It also noted the Government's statement that section 6 of Decision No. Kep 115/Men/VII/2004, which requires an entrepreneur who employs children for developing their talents and interests to submit a prescribed report form, was applicable only to employers hiring children for the purposes of artistic performances and similar activities.

The Committee notes the absence of information in the Government's report on this regard. The Committee recalls that the obligation of the employer under *Article 9(3)* of the Convention to keep and make available, registers or other documents that contain the names and ages or date of birth of persons under the age of 18 years employed by them, is applicable to working children in all activities and sectors. *The Committee therefore requests the Government to take the necessary measures, by amendment of the law or regulation, to prescribe the obligation of employers to keep registers of children employed in all economic activities and not only of those employed for the purposes of artistic performances and similar activities.*

The Committee is raising other points in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Articles 3(a) and 5 of the Convention. Sale and trafficking of children and monitoring mechanisms. In its previous comments, the Committee noted that Act No. 21 of 2007 on trafficking in persons criminalizes the sale, recruitment and transport of persons, including children under the age of 18 years for the purpose of exploitation (sections 1–6, and 17). It also noted the Government's indication that a Women and Children's Service Unit was established within the Republic of Indonesia National Police to strengthen the police in its efforts to combat trafficking in persons. It noted that many police officers and prosecutors remained unfamiliar with the anti-trafficking legislation and were reluctant or unsure about how to effectively use this legislation to punish traffickers, and that corruption continued to hinder anti-trafficking efforts. Moreover, information from ILO–IPEC indicated that 18 provinces had established a National Anti-Trafficking in Persons Task Force to optimize the handling of trafficking cases. The Committee further noted from the Government's report that only three perpetrators of child trafficking were sentenced to imprisonment from four to eight years. The Committee observed that, in the concluding observations of 2014 (CRC/C/IDN/CO/3-4, paragraph 75), the Committee on the Rights of the Child (CRC) expressed concern at the high prevalence of trafficking within the State party and noted that the National Anti-Trafficking in Persons Task Force (NAT-Task Force) was not sufficiently effective and that many districts were not covered by the task force.

The Committee notes from the Government's report under the Forced Labour Convention, 1930 (No. 29), that the NAT-Task Force has been established in each province and a Task Force 115 has been established for the enforcement of anti-trafficking legislation. The Government further states that measures have been taken to strengthen the capacity of officers involved in combating trafficking in persons, including prosecutors, judges, labour inspectors, police officers and immigration officers. ***The Committee requests the Government to continue to take the necessary measures to strengthen the capacity of law enforcement bodies and the NAT-Task Force to combat trafficking in children, including by means of training on anti-trafficking legislation, identification and assistance of victims and the provision of adequate resources. It asks the Government to continue to provide updated information on the measures taken in this respect, including the measures taken by the Task Force 115, and the results achieved. Furthermore, the Committee requests the Government to take the necessary measures to ensure thorough investigations and prosecutions against persons who engage in the trafficking of children and to provide information on the number of investigations, prosecutions and convictions, as well as the specific penalties imposed in this respect.***

Clause (d). Hazardous work. Child domestic workers. In its previous comments, the Committee noted the Government's statement that a draft Bill on the protection of domestic workers had been formulated and included in the Register of the National Legislation Programme for 2010–14. It also noted that section 4(b) of Regulation No. 2 of 2015 regarding the protection of domestic workers prescribes that a domestic worker shall not be less than 18 years old. The Committee observed, however, that according to an ILO–IPEC project document, organizations of domestic workers considered that the provisions of the Regulation were still below the standards of decent work for a domestic worker and demanded the enactment of a comprehensive bill. The Committee further noted that according to the ILO–IPEC Global Action Programme report of 2015, 35 participants from ministries, police, trade unions and civil society organizations (CSOs) developed a sectoral action plan to eliminate child labour in domestic work in Indonesia which was awaiting endorsement by the Government. The Committee finally noted from the ILO–IPEC 2013 study entitled *Child domestic workers in Indonesia: Case studies of Jakarta and Greater areas*, that there were approximately 437,000 child domestic workers (CDW) in Indonesia, of whom 49 per cent were below 15 years and 51 per cent between 15 and 17 years of age, in particular girls (approximately 85 per cent). Regarding the working conditions, the average working hours ranged from nine to 16 hours, seven days a week and most of them worked in live-in conditions.

The Committee notes the Government's information in its report, that the Domestic Workers Protection Bill (DWP Bill) has not yet been discussed in the parliament and was not included in the national legislation programme for 2014–19. The Committee notes from the ILO–IPEC technical progress report of April 2018 of the project entitled *PROMOTE: Decent Work for Domestic Workers to End Child Domestic Work* (TPR 2018) that an informal network to advocate for and promote the endorsement of the DWP Bill was created. It also notes from the TPR 2018 that three local regulations on the protection of domestic workers were initiated in Bandar Lampung City, South Sulawesi Province and in Malang District. The Committee notes, however, that the CRC, in its concluding observations of 10 July 2014 expressed concern, at the high number of children involved in hazardous work, including in domestic work by children as young as 11 years old (CRC/C/IDN/CO/3-4, paragraph 71). ***The Committee urges the Government to take concrete measures to address the situation of child domestic workers, and to provide information on the results achieved, particularly in terms of the prevention and withdrawal of children from domestic work. It requests the Government to take the necessary measures to ensure that the DWP Bill is adopted, without delay, in order to ensure the comprehensive protection of children under 18 years from hazardous domestic work. It also requests the Government to provide information on the progress made with regard to the adoption of the local regulations on the protection of domestic workers, initiated in Bandar Lampung City, South Sulawesi Province, and in Malang District.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and assisting the removal of children from these worst forms. 1. *Trafficking.* In its previous comments, the Committee noted that the efforts to protect victims of trafficking remained uneven and inadequate in comparison with the scale of the country's trafficking problem. It noted the Government's information that the child social protection shelters, located in Jakarta and 27 other areas of Indonesia, provide services for child victims of trafficking. Moreover, the rehabilitation programmes for child victims of trafficking, which include education and training were provided in one of the 13 nursing/rehabilitation homes owned by the Ministry of Social Affairs across the country.

The Committee notes the Government's information that a National Action Plan to Prevent Trafficking of Persons 2015–19 was formulated. It also notes from the Government's report that a Community-based Integrated Child Protection Movement which involves the community in the prevention and early detection of trafficking of children was established in 341 villages in 34 provinces. ***The Committee requests the Government to provide information on the specific measures taken within the framework of the National Action Plan to Prevent Trafficking of Persons 2015–19 to combat trafficking of children and the results achieved in terms of the number of children withdrawn from trafficking and rehabilitated. Moreover, it requests the Government to provide information on the number of child victims of trafficking who have been identified, removed, and rehabilitated by the Community-based Integrated Child Protection Movement.***

2. *Commercial sexual exploitation of children.* The Committee previously noted the information from UNICEF that approximately 30 per cent of the women in prostitution in Indonesia are below the age of 18, with 40,000–70,000 Indonesian children being victims of sexual exploitation. It noted that child-sex tourism was prevalent in urban areas and

tourist destinations. The Committee noted that, according to a report by the Understanding Children's Work programme 2015, the nature of commercial sexual exploitation in some areas has reportedly changed from children living in brothels to children living with their families and working out in hotels and other locations through arrangements facilitated by social media. Moreover, Indonesian children were also trafficked internally for commercial sexual exploitation at mining operations in the Maluku, Papua and Jambi provinces in the urban areas of Batam District, Riau Island and West Papua and for sex tourism in Bali (panel 4, page 21). The Committee further observed that the CRC, in its concluding observations of 2014 (CRC/C/IDN/CO/3-4, paragraph 75), was very concerned about the large number of underage children involved in sex work.

The Committee notes the Government's information that in 2017, around 280 tourism stakeholders, including hotel and massage parlour administrators, tourist guides, officials in the tourism industry and law enforcement bodies in seven districts were provided training to prevent sexual violence and exploitation of children. Moreover, the Government also formulated a guideline entitled "Child-friendly Tourism Village" which will be applied as part of the Community-based Integrated Child Protection Village in tourism spots. ***While taking note of the measures taken by the Government the Committee urges it to intensify its efforts to protect children under 18 years of age from commercial sexual exploitation, including in the tourism sector. It requests the Government to continue providing information on the measures taken in this regard and on the number of children who have been removed from commercial sexual exploitation and rehabilitated. Furthermore, the Committee requests the Government to provide information on the impact of the guideline on Child-friendly Tourism Village in preventing children from engaging in commercial sexual exploitation.***

3. *Children engaged in the sale, production and trafficking of drugs.* In its previous comments, the Committee noted that approximately 15,000 children were involved in the sale, production and trafficking of drugs in Jakarta. It also noted reports that as many as 20 per cent of drug users were involved in the sale, production or trafficking of drugs, suggesting that between 100,000 and 240,000 young persons might be involved in the drugs trade. It further noted that section 9 of the Act on Child Protection of 2002, provides for penalties for persons who involve children in the production, sale and trafficking of drugs. However, the Government indicated that there had not been any significant progress made with regard to the prosecution of persons employing children in several of the worst forms of child labour, including drug trafficking, and that some cases were not taken to court. ***Noting the absence of information in the Government's report, the Committee once again urges the Government to take the necessary measures to ensure that thorough investigations and prosecutions of persons who involve children in the production, sale or trafficking of illicit drugs are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. It requests the Government to provide information on the measures taken as well as the number of investigations, prosecutions and sanctions imposed pursuant to section 9 of the Act on Child Protection of 2002.***

Clause (d). Identifying and reaching out to children at special risk. 1. *Migrant children.* The Committee notes from a report of the UNICEF, entitled *Palm Oil and Children in Indonesia – Exploring the sector's impact on children's rights, 2016* that children of plantation workers, the majority of whom are internal or transmigrants, are particularly vulnerable to trafficking and child labour. The Committee also notes that the Committee on the Protection of the Rights of all Migrant Workers and Members of their Families (CMW), in its concluding observations of 19 October 2017, expressed concern at the large number of migrant children who are exposed to hazardous conditions of work in mines, offshore fishing, construction sites and quarries, or as domestic workers or sex workers and their vulnerability to trafficking and forced labour (CMW/C/IDN/CO/1, paragraph 32). ***Noting with concern that migrant children are at an increased risk of being engaged in the worst forms of child labour, the Committee strongly urges the Government to take effective and time-bound measures to protect these children from the worst forms of child labour. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

2. *Children on fishing platforms.* The Committee previously noted that more than 7,000 children were estimated to be engaged in deep-sea fishing in North Sumatra. It also noted that the Government had taken various efforts to prevent the engagement of children in work on fishing platforms, including raising community awareness, cooperation with regional governments and collaboration with non-governmental organizations (NGOs). Moreover, in districts containing fishing platforms, action committees were established under the action plan for the elimination of the worst forms of child labour.

The Committee notes that the Government merely states that it has intervened in one case of child labour in the fishing sector and removed and provided skill training to the victim. The Committee notes from the ILO Quarterly Report of July–September 2017 of the SEA Fisheries project that Indonesia is one of the primary implementing countries of this project. The project aims to combat trafficking and labour exploitation in fisheries, by strengthening coordination and increasing the efficiency and efficacy of existing initiatives at national and regional levels. ***The Committee requests the Government to redouble its efforts to withdraw children from hazardous work in fisheries and to provide information on the measures taken to ensure their withdrawal, rehabilitation and social integration, including within the framework of the SEA Fisheries project.***

The Committee is raising other matters in a request addressed directly to the Government.

Iraq

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Articles 3(a) and 7(1) of the Convention. All forms of slavery and practices similar to slavery. Compulsory recruitment of children for use in armed conflict and penalties. The Committee previously noted that according to the report of the United Nations Secretary-General on Children and Armed Conflict of 5 June 2015, at least 67 boys were recruited by the Islamic State in Iraq and Levant (ISIS) and an unknown number of children were recruited by the pro-Government Popular Mobilization Forces (PMF) in conflict areas. Boys as young as 10 years old were recruited and used by self-defence groups supporting Iraqi security forces and girls were also reportedly associated with Yazidi self-defence groups. The Committee had noted the Government's indication that it is endeavouring to promulgate a law prohibiting the recruitment of children under 18 years for use in armed conflict. The Committee strongly urged the Government to take measures to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed forces and armed groups.

The Committee notes an absence of information on this point in the Government's report. The Committee notes that the recruitment of children for their use in armed conflict is still prevailing on the ground as seen from the report of the United Nations Secretary-General on Children and Armed Conflict of 16 May 2018 (A/72/865-S/2018/465). The UN documented 523 cases of children recruited by parties to the conflict, of which 109 cases (101 boys, eight girls) were verified. Cases of recruitment involving 59 children, including eight girls, were attributed to ISIS. Children were used as suicide bombers and combatants, for logistics and manufacturing explosive devices, and as wives for fighters (paragraph 75). The Committee also notes that the UN Secretary-General expressed his concern about the organization of military training for boys aged 15 and above by the pro-government PMF and encouraged the Government to develop an action plan to end and prevent the alleged training, recruitment and use of children by the PMF (paragraph 85). The Committee once again **deeply deplores** the current situation of children affected by armed conflict in Iraq, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. It recalls that, under *Article 3(a)* of the Convention, the forced or compulsory recruitment of children under 18 years of age for use in armed conflict is considered to be one of the worst forms of child labour and that, under *Article 1* of the Convention, member States must take immediate and effective measures to secure the elimination of the worst forms of child labour as a matter of urgency. **While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee once again strongly urges the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop to the forced recruitment of children under 18 years of age into armed forces and armed groups. It also once again urges the Government to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons, including members in the regular armed forces, who recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. Finally, the Committee once again urges the Government to take the necessary measures to ensure the adoption of the law prohibiting the recruitment of children under 18 years of age for use in armed conflict and expresses the firm hope that this new law will establish sufficiently effective and dissuasive penalties. The Committee requests the Government to provide information on any progress made in this regard.**

Article 7(2). Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education. In its previous comments, the Committee noted the Government's information that it had finalized a project with UNESCO entitled "Teach a child" which aims to provide institutional and technical support to improve the quality and capacity of informal education. This project also aimed to provide alternative education to more than 180,000 out-of-school children, including girls and children from rural areas and to integrate them into formal education through expedited education. In this regard, UNESCO, with the help of labour inspectors, had registered a number of children, including children in street situations, for expedited education. However, the Committee noted from the Multiple Indicator Cluster Survey of 2011, that 38 per cent of children among the age group of 12–17 years were out of school, and that the situation of girls was much worse than boys. The Committee further noted that the Committee on the Rights of the Child (CRC), in its concluding observations of March 2015, expressed concern that only half of secondary school-age children are attending school, as a consequence of schools being attacked and school children kidnapped on their way to school, and that a number of internally displaced and refugee children have no access to school.

The Committee notes the absence of information in the Government's report on this point. The Committee notes that according to the 2018 report of the Secretary-General, 161 incidents of attacks on schools and hospitals had been documented by the UN (paragraph 85). The Committee also observes that according to UNICEF, drop-out rates for the overall education system increased from 2 per cent in 2013–14 to 2.6 per cent in 2015–16. The lower secondary level is notable because drop-out rates are significantly higher (3.6 per cent for boys and 4.7 per cent for girls) than for other education levels. Moreover, around 355,000 internally displaced children remain out of school in Iraq, representing 48.3 per cent of the total internally displaced school-age children. In conflict affected governorates, more than 90 per cent of school-age children are left out of the education system. The Committee also observes that according to UNICEF, Iraq spent only 5.7 per cent of its government expenditure on education for the period 2015–16, and therefore needs to increase

the total amount it spends on education, and this increased spending should address education needs for school construction, access to education for girls and low-income families, as well as improving the quality of education (report on the cost and benefits of education in Iraq, 2017). The Committee once again expresses its **deep concern** at the large number of children who are deprived of education because of the climate of insecurity prevailing in the country. **While acknowledging the difficult situation prevailing in the country, the Committee once again urges the Government to take the necessary measures to improve access to free basic education of all children, particularly girls, children in rural areas and in areas affected by war. It once again strongly encourages the Government to redouble its measures to increase the enrolment, attendance and completion rates at the primary and secondary level and to reduce school drop-out rates so as to prevent the engagement of children in the worst forms of child labour.**

Clause (b). *Providing the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration.* 1. *Children in armed conflict.* The Committee noted from the 2015 report of the Secretary-General that at least 391 children, including 16 girls, held in detention facilities were indicted or convicted of terrorism-related charges for their alleged association with armed groups.

The Committee notes the absence of information in the Government's report on this point. It notes that according to the 2018 report of the Secretary-General, in 2017 at least 1,036 children (1,024 boys, 12 girls), including 345 in the Kurdistan Region, remained in juvenile detention facilities on national security-related charges, mostly for their alleged association with ISIS (paragraph 76). The Committee once again expresses its **deep concern** at the practice of the detention and conviction of children for their alleged association with armed groups. In this regard, the Committee must emphasize that children under the age of 18 years associated with armed groups should be treated as victims rather than offenders (see 2012 General Survey on the fundamental Conventions, paragraph 502). **The Committee, therefore, once again urges the Government to take the necessary measures to ensure that children removed from armed groups are treated as victims rather than offenders. It also, once again, urges the Government to take effective and time-bound measures to remove children from armed groups and ensure their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard and on the number of children removed from armed groups and reintegrated.**

2. *Sexual slavery.* The Committee noted that according to the CRC, "markets" were set up by ISIS in which abducted girls were sold after attaching price tags to them, and that the sexual enslavement of children detained occurred in makeshift prisons of ISIS. The Committee further noted from the report of the Secretary-General that at least 1,297 children were abducted, including girls as young as 12 years, who were sold in ISIS-controlled areas for sexual slavery. The Committee notes an absence of information on this point in the Government's report. The Committee notes that according to the 2018 report of the Secretary-General, nine cases of sexual violence were verified, and girls who were abused were often forced to manufacture bombs (paragraph 79). **The Committee once again urges the Government to take effective and time-bound measures to remove children under 18 years of age from sexual slavery and ensure their rehabilitation and social integration. It once again requests the Government to provide information on specific measures taken in this regard as well as the number of children removed from sexual slavery and rehabilitated.**

The Committee is also raising other matters in a request addressed directly to the Government.

[The Government is asked to supply full particulars to the Conference at its 108th Session and to reply in full to the present comments in 2019.]

Jamaica

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 3(2) of the Convention. Determination of hazardous work. The Committee previously noted that a draft list of types of hazardous employment or work prohibited for persons below 18 years of age had been developed in consultation with the social partners. The Committee noted that this draft list contained 45 types of prohibited work. It also noted that the list of hazardous work would be included in the regulations of the new Occupational Safety and Health Act (OSH Act), when adopted.

The Committee notes the Government's indication that, pending adoption of the new OSH Act, improvements to the existing list have been made to make it more comprehensive. The Government indicates that the list will be provided as soon as it is available. **Noting with regret that the Government has been compiling this list since 2006, the Committee urges the Government to take the necessary measures to ensure that the list of types of hazardous work prohibited for persons under 18 years of age is adopted and included in the regulations of the OSH Act in the near future. It requests the Government to provide a final copy of the list, once adopted.**

Article 7(3). Determination of light work. The Committee previously noted that section 34(1) and (2) of the Child Care and Protection Act permits the employment of a child between 13 and 15 years in an occupation included in a list of prescribed occupations, consisting of light work considered appropriate by the minister, and specifying the number of hours during which and the conditions under which such a child may be so employed. In this regard, the Government indicated that a draft list of occupations constituting light work was being examined by a panel consisting of safety inspectors, workers' and employers' representatives and would be included in the regulations of the new OSH Act. **Noting the Government's indication that the list will be submitted as soon as it is available, the Committee urges the Government to take the necessary measures to ensure that the OSH Act, and its regulations containing the list of light work permitted for children, are adopted in the very near future.**

Article 9(1). Penalties and the labour inspectorate. The Committee previously noted that labour inspections are confined to the formal sector, and that labour inspectors have yet to detect any cases of child labour in the course of inspections. In this regard, the Committee noted the information from ILO-IPEC that the informal sector was one of the main sectors in which child labour occurs. However, the Committee noted the Government's indication that the draft OSH Act would replace the Factories Act and provide an improved framework for labour inspectors with regard to monitoring cases of child labour in sectors where they hitherto had limited powers, including the informal sector. The Government also indicated that the penalties under the draft OSH Act had been increased. The Committee noted that the new OSH Act would authorize labour inspectors to enforce the appropriate sanctions where a breach had been committed. The Committee noted however that labour officers' powers of inspection are limited to commercial buildings and factories, which greatly restricts their capacity to monitor child labour in the informal economy.

The Committee notes the information in the Government's report that, in the framework of the adoption of the new OSH Act, capacity-building workshops have been conducted for labour inspectors in order to provide an update on their new roles and responsibilities under the new Act. The Government indicates that it is now more than likely that the number of inspectors will be increased in response to the expected increase of inspections of workplaces. ***The Committee urges the Government to ensure the adoption of the provisions of the draft OSH Act which will enable labour inspectors to enforce appropriate sanctions. The Committee also requests the Government to redouble its efforts to ensure that adequate penalties are imposed for breach of the provisions giving effect to the Convention. It further requests the Government to continue to intensify its efforts to strengthen the capacity and expand the reach of the labour inspectorate, including through the allocation of additional resources, in preparation for the labour inspectorate's expanded role, pursuant to the draft OSH Act, in monitoring child labour in the informal economy.***

Article 9(3). Registers of employment. The Committee previously noted that the available texts of legislation did not contain provisions requiring an employer to keep registers and documents of persons employed or working under him/her. However, it noted the Government's statement that the legal framework on this issue was being examined by the Ministry.

The Committee notes the Government's indication that the Child Care and Protection Act (CCPA) is being reviewed and will include provisions prescribing employers to keep records of children employed for artistic performances. It will also require from a person employing a child to notify and provide the Child Labour Unit of the Ministry of Labour and Social Security with relevant details in order to receive the grant of an exemption permit. The Committee recalls that, by virtue of *Article 9(3)* of the Convention, legislative provisions shall prescribe the registers which shall be kept and made available by the employer and which must contain the names and ages or dates of birth duly certified wherever possible, of persons whom he/she employs or who work for him/her and who are less than 18 years of age, covering all sectors and activities, not only artistic performances. ***The Committee therefore requests the Government to take the necessary measures in the near future to ensure that the CCPA is amended to include provisions prescribing registers to be kept by employers hiring children under 18, in accordance with Article 9(3) of the Convention.***

Application of the Convention in practice. Following its previous comments, the Committee notes the Government's indication that the process of the development of a National Survey on Child Labour will start at the end of 2015–early 2016. The Government indicates that several quick and unscientific assessments (dipstick surveys) were conducted in parts of the country considered as “hotspots”, revealing notably that most of the working children are involved in domestic work (93 per cent) followed by agriculture and street/market activities. The Committee also notes that, according to the Multiple Indicator Cluster Survey conducted in 2011, 16.7 per cent of boys and 13.8 per cent of girls aged 5 to 11 years old were involved in child labour, as well as 11.6 per cent of boys and 9.7 per cent of girls aged 12 to 14. ***The Committee requests the Government to pursue its efforts to combat child labour, and to provide information on the measures taken in this regard. The Committee also requests the Government to continue its efforts to undertake a child labour survey, to ensure that sufficient up-to-date data on the situation of working children in Jamaica is available, including, for example, data on the number of children and young persons who are engaged in economic activities and statistics relating to the nature, scope and trends of their work.***

The Committee expresses the firm hope that the Government will take into consideration the Committee's comments while finalizing its draft legislation. The Committee invites the Government to consider availing technical assistance from the ILO to bring its legislation into conformity with the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution. The Committee previously noted that the Sexual Offences Act prohibits procuring any person to become a prostitute (section 18(1)(b)), and prohibits living off the proceeds of prostitution (section 23(1)(a)). However, the Committee observed that the Sexual Offences Act did not appear to prohibit the use of a person under the age of 18 for the purpose of prostitution, that is, by a client. The Committee also noted the Government's indication that two bills were debated by Parliament relating to sexual offences.

The Committee notes the Government's statement that sexual intercourse with a person under the age of 16 is prohibited and that any sexual relations with a child entail the maximum penalty of life imprisonment. The Government also indicates that a Sex Offenders Registry was established in 2014 under the control of the Department of Corrections. The Committee reminds the Government that a child is defined as a person under 18 years old in accordance with *Article 2* of the Convention and that *Article 3(b)* specifically prohibits the use of a child for prostitution, that is, by a client. ***The Committee, therefore, requests the Government to take the necessary measures to ensure that its legislation contains a prohibition on the use of a child under 18 years of age for the purpose of prostitution, in accordance with the Convention.***

Clause (c). Use, procuring or offering of a child for illicit activities, particularly the production and trafficking of drugs. The Committee previously observed that the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs, did not appear to be specifically prohibited by the relevant Jamaican legislation. It also noted that, in practice, children were used in Jamaica as drug couriers and for selling drugs. However, the Committee noted that the draft list of hazardous work prohibited for children did prohibit children in illicit activities and the drug industry, as

well as more specific provisions prohibiting children from cultivating ganja and guarding ganja fields. The Committee also noted the information from the International Trade Union Confederation, that in the country, boys are used as drug couriers and dealers.

The Committee notes the Government's statement that provisions prohibiting the use of children in illicit activities will be included under the review of the Child Care and Protection Act as well as in the draft Occupational, Safety and Hazards Act (OSH Act). ***The Committee urges the Government to take the necessary measures to ensure the adoption of the provisions prohibiting the involvement of children in illicit activities and the drug industry, in the near future (whether in the Child Care and Protection Act or the OSH Act). The Committee also requests the Government to take measures to ensure that this offence is punishable with sufficiently effective and dissuasive penalties.***

Article 4(1). Determination of hazardous work. With regard to the adoption of the list of hazardous types of work prohibited to children under 18 years of age, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138). The Committee also draws the Government's attention to Article 4(1) of this Convention, according to which the types of work referred to under Article 3(d) must be determined by national laws or regulations or by the competent authority, taking into consideration relevant international standards, in particular Paragraph 3 of Recommendation No. 190.

Articles 5 and 7(1). Monitoring mechanisms, penalties and the application of the Convention in practice. Trafficking of children and child prostitution. The Committee previously noted that trafficking of children (particularly for the purpose of forced prostitution) and commercial sexual exploitation of children (especially in tourist areas) are a problem in Jamaica. The Committee noted that a National Task Force Against Trafficking in Persons (NATFATIP) is responsible for the implementation of the plan of action. The Committee finally observed that the number of reported cases of child trafficking appeared to be significantly higher than the total number of cases of trafficking that were investigated.

The Committee takes note of the National Plan of Action for Combating Trafficking in Persons 2012–15 attached with the Government's report. The Committee also notes the Government's statement that the Trafficking in Persons Act 2009 was amended in 2013, and prescribes aggravating circumstances and stiffer penalties when the victim of trafficking is a child, under section 4A(2)(l). The Government further reports that 35 investigations have been initiated, five persons arrested and two new prosecutions carried out. It also indicates that prosecutors, investigators, judges, labour inspectors, social workers and other public officials received training on trafficking in persons. In addition, 76 police officers attached to the Organized Crime Investigations Division (OCID) were also sensitized as well as line operators of the Office of the Children's Registry. Moreover, the Jamaica Constabulary Force developed Standard Operating Procedures for human trafficking and the Passport, Immigration and Citizenship Agency (PICA) has been sensitized to the distinction of treatment for victims of trafficking. The Committee takes note of the awareness-raising measures taken by the Government to prevent trafficking. In this regard, the Government states that the NATFATIP has entered into an agreement with the Jamaica Information Service, the Media and Public Relations Branch of the Government in order to provide a range of mass media public education content. While taking due note of these measures, the Committee observes that, according to its concluding observations of 2015 (CRC/C/JAM/CO/3-4, paragraph 62), the Committee on the Rights of the Child notes that the State party is a source, transit, and destination country for adults and children subjected to sex trafficking and forced labour and is concerned about reports of children being coerced to engage in commercial sex, including sex tourism, in the State party. ***The Committee, therefore, requests the Government to continue to take measures to ensure, in practice, the protection of children from trafficking and commercial sexual exploitation. It requests the Government to ensure that thorough investigations and robust prosecutions of perpetrators of the trafficking and commercial sexual exploitation of children are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. It asks the Government to provide information on the measures taken in this respect, including through the implementation of the National Plan of Action for Combating Trafficking in Persons by the NATFATIP, and the results achieved, particularly the number of persons investigated, convicted and sentenced for cases of trafficking involving victims under the age of 18.***

Article 7(2). Effective and time-bound measures. Clause (b). Providing the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Child victims of trafficking and prostitution. Following its previous comments, the Committee notes that the National Plan of Action for Combating Trafficking in Persons provides for the establishment of mechanisms for the protection and care of victims with a focus on rescue, removal and reintegration. The Committee notes the information in the Government's report that a shelter is now functional for women and child victims of trafficking in accordance with the shelter guidelines approved by the Cabinet, where victims are provided with health services, social work aid, psychosocial care and training. The Government indicates that out of eight victims identified, one was a child, who was taken care of by the Child Development Agency (CDA) and states that the shelter currently houses one victim. ***Noting the very limited number of child victims being assisted, the Committee requests the Government to intensify its efforts to take effective and time-bound measures to ensure the provision of appropriate services, including legal, psychological and medical services, to child victims of trafficking and commercial sexual exploitation, including child sex tourism, to facilitate their rehabilitation and social integration. It requests the Government to continue to provide information on measures taken in this regard, including the number of children reached through these initiatives.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Jordan

Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

Article 1 of the Convention and application of the Convention in practice. In its previous comments, the Committee noted the adoption of the National Framework to Combat Child Labour (NFCL) 2011–16, a comprehensive policy on child labour which aims to tackle child labour throughout the Kingdom through systematic monitoring of child labour and collective action by key stakeholders through support from ILO–IPEC. It also noted that the Government has been implementing the ILO–IPEC project entitled, “Moving towards a child labour free Jordan”, which aims to address the problem of child labour by strengthening the policy and legislative frameworks and building the capacity of key stakeholders to combat child labour. The Committee encouraged the Government to continue its efforts to combat child

labour and to provide information on the measures taken within the NFCL to combat child labour and on the results achieved.

The Committee notes the Government's information in its report, that the Ministry of Labour has embarked on various programmes and policies to reduce child labour in cooperation with all governmental and non-governmental bodies. These measures include: (i) launching of various community awareness-raising events on child labour through audio-visual media; (ii) celebrating the World Day on child labour with the participation of working children; and (iii) increasing the budget for the Social Support Centre, which endeavours to withdraw and rehabilitate working children and their families, from 50,000 to 300,000 Jordanian dinars.

The Committee also notes from the summary report of the ILO–IPEC project that, within the framework of the “Moving towards a child labour free Jordan” project: the NFCL was made operational in all the 12 governorates; effective tools for child labour inspections were developed; a centralized database on child labour was created; and the capacity of child labour units and social partners to tackle child labour was enhanced. The Committee further notes from the Government's report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), that a technical committee has been set up, comprising of government and civil society institutions and international organizations, to adapt the NFCL in order to address child protection in a better way.

However, the Committee notes that according to the findings of the National Child Labour Survey (NCLS) of 2016, the number of child labourers in Jordan has roughly doubled to more than 69,000, since 2007, with around 44,000 children engaged in hazardous work, of which 20 per cent were children between 12 and 14 years and over 71 per cent were children between 15 and 17 years. According to this survey, the main sectors of employment of working children include agriculture, forestry and fishing and wholesale and retail trade. While noting the measures taken by the Government, the Committee observes that a significant number of children under the minimum age are engaged in child labour and in hazardous work in Jordan. ***The Committee therefore strongly encourages the Government to strengthen its efforts to ensure the elimination of child labour in all economic activities and requests the Government to continue to provide information on the measures taken in this regard and the results achieved. The Committee also requests the Government to provide information on the amendments made to the NFCL and on the measures taken within its framework to combat child labour.***

Article 9(1). Penalties and labour inspection. In its previous comments, the Committee noted that the Committee on the Rights of the Child, in its concluding observations of July 2014, expressed concern that thousands of children, mainly boys, were still working in the wholesale trade and agriculture sectors while a number of girls were engaged as domestic workers (CRC/C/JOR/CO/4-5, paragraph 57). It further noted from the ILO–IPEC Rapid Assessment report of 2014, that the 150 labour inspectors currently available was too small for effective coverage in all sectors, given the size of the country.

The Committee notes the Government's information, that the Ministry of Labour, in collaboration with the ILO, has conducted several training sessions and workshops on finalizing a Manual on Occupational Safety and Health and Child Labour and on increasing the labour inspector's awareness on the impact and hazards to which children are exposed due to child labour. Moreover, the Ministry of Labour has intensified the monitoring of all institutions and sectors which employ children through its periodical inspection visits and has initiated legal proceedings against employers who do not comply with the provisions of the Labour Act. Accordingly, the Committee notes the Government's information that in 2016, 8,621 inspections were conducted; 1,210 contraventions related to child labour involving 1,479 working children were recorded; and 852 warnings were issued. In 2017, 4,145 inspections were conducted; 242 contraventions involving 270 working children were recorded; and 204 warnings were issued. Moreover, from January to July 2018, 5,542 visits were carried out; 507 working children were identified, mainly in the vehicle repair, retail and wholesale trade and restaurant sectors; 441 warnings were issued against employers; and 430 warnings of closure of undertakings were issued. The Committee notes, however, that according to a study conducted by the ILO, entitled: *Decent Work and the Agriculture Sector in Jordan: Evidence from Workers' and Employers' surveys 2018*, 50 per cent of Syrian agricultural workers reported that children under the age of 15 were working with them in agricultural fields; and that 78 per cent of Syrian agricultural workers and 75 per cent of surveyed employers indicated that their place of work had never been visited by a labour inspector. ***The Committee therefore strongly encourages the Government to take the necessary measures to strengthen the capacity of the labour inspectorate and to expand the labour inspection services to all sectors, including the agricultural sector so as to ensure that children benefit from the protection established by the Convention. It requests the Government to continue to provide information on the measures taken in this regard, as well as on the number and nature of violations relating to the employment of children and young persons detected by the labour inspectorate, the number of persons prosecuted and the penalties imposed.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 7(2) of the Convention. Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Refugee children. In its previous comments, the Committee noted from the ILO–IPEC rapid assessment on child labour in the urban informal sector in three governorates of Jordan, 2014, that one in ten Syrian refugee children were engaged in child labour and that access to education constituted a significant vulnerability among Syrians with an estimated 60 per cent of the school-age children not attending school. It also noted from the ILO report

entitled *The ILO response to the Syrian refugee crisis* in Jordan and Lebanon, of March 2014, that many refugee children were working in hazardous conditions in the agricultural and urban informal sector, street peddling or begging, with an estimated 30,000 child labourers in Jordan vulnerable to abuse and exploitation. The Committee urged the Government to take effective and time-bound measures to protect Syrian refugee children from the worst forms of child labour and to provide the necessary and appropriate direct assistance for their removal and for their rehabilitation and social integration.

The Committee notes the Government's information in its report that the protection which is provided to a Jordanian child is also provided to a non-Jordanian child. With regard to measures taken to protect children, including Syrian refugee children, from the worst forms of child labour, the Government refers to the following measures taken by the Ministry of Labour, such as: (i) increasing inspection visits to undertakings and adopting a more strict approach in initiating legal proceedings against cases of non-compliance; (ii) providing advice and counselling to employers with respect to the consequences of engaging children in child labour; (iii) referring and transferring children to institutions which provide services and support to working children and their families, such as the Social Support Centre which has received a large number of Syrian refugee working children; and (iv) increasing awareness on the importance of education and on the risks of occupational hazards through community awareness raising sessions and involving Syrian refugee children and their families in the "World Day Against Child Labour" event.

The Committee notes that according to the United Nations High Commissioner for Refugees (UNHCR) fact sheet on Jordan of June 2018, there are 751,275 refugees in Jordan of which 48 per cent are children. It also notes that the Government, in collaboration with ILO-IPEC, is implementing a project entitled "Tackling child labour among Syrian Refugees and their host communities in Jordan and Lebanon" with the aim of contributing to the elimination of child labour, especially its worst forms among Syrian refugees and host communities in Jordan. According to the UNICEF fact sheet on education in Jordan, UNICEF, in collaboration with the Ministry of Education, is providing education to over 165,000 Syrian refugee children in camps and host communities. Moreover, the Committee notes with *interest* the achievements made following the implementation of the "3RP Regional Refugee and Resilience Plan 2017–18", which was developed by over 270 actors (UN and international and national NGOs) to tackle Syrian refugee crisis and implemented under the leadership of the national authorities of Egypt, Jordan, Turkey and Iraq. According to the 2017 Annual Report of the 3RP, in Jordan: an estimated 15,246 girls and boys received specialized child protection case management and multi-sectoral services; 130,668 Syrian children were enrolled in camp schools; 6,421 children were enrolled in the Ministry of Education certified catch-up and drop-out programmes; 118,107 children and adolescents were enrolled in learning support services; and 8,617 children were enrolled in pre-primary levels. It finally notes from the findings of the National Child Labour Survey Report of 2016 that the school attendance rates for children of other nationalities was 90.5 per cent and for Syrian children was 72.5 per cent. The Committee notes, however, that according to the UNICEF assessment of February 2018, 85 per cent of Syrian refugee children in Jordan are living in poverty and are deprived of the most basic needs, including education, and are vulnerable to exploitation. The Committee takes due note of the various measures taken by the Government to identify, reach out to, remove and reintegrate Syrian refugee children who are exposed to the worst forms of child labour. ***The Committee therefore strongly encourages the Government to continue to take effective and time-bound measures to protect Syrian refugee children from the worst forms of child labour and to provide the necessary and appropriate direct assistance for their removal and for their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard as well as the results achieved.***

The Committee is also raising other matters in a request addressed directly to the Government.

Kazakhstan

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 19 September 2018, as well as the Government's reply received on 18 October 2018.

Article 3(a) of the Convention. Trafficking of children. The Committee previously noted that the Criminal Code of 2014 increased penalties for crimes against children, including trafficking of children. The Committee further noted that 300 cases related to trafficking in persons were recorded and investigated in 2014, of which 23 cases relate to trafficking of minors. The Committee noted, however, that the Committee on the Rights of the Child (CRC), in its concluding observations of 2015, expressed concern about the reports that large numbers of children were trafficked from, to and within the country and that most victims remain unidentified. The CRC also expressed concern at the information about the persistent complicity of the police in trafficking cases.

The Committee notes from the observations of the ITUC that migrant underage workers often fall into slavery or become victims of sexual abuse or forced labour, and are subjected to harsh working conditions, with no adequate monitoring of their situation. The ITUC indicates that, for example, during a mission conducted from September to November 2017 in Kyrgyzstan and Kazakhstan, the International Federation for Human Rights (*Fédération internationale des ligues des droits de l'homme* (FIDH)) detected a number of cases of forced labour, including human trafficking and child labour, particularly involving Tajik and Kyrgyz minors. In its response to the observations of the ITUC, the Government indicates that section 134 of the Criminal Code criminalizes the involvement of minors in prostitution, while

section 135 criminalizes trafficking in minors. It states that Kazakhstan has a strong legal framework to combat all types of violations of children's rights.

The Committee notes the Government's information in its report that, regarding the implementation of the relevant provisions of the Criminal Code, in 2017, the offices of internal affairs opened legal proceedings on eight cases under section 13, and 12 cases under section 135. The Committee also notes the examples provided by the Government regarding convictions of police and other officials for their involvement in cases of trafficking or exploitation. ***The Committee requests the Government to continue its efforts to ensure that all perpetrators of trafficking of children, including complicit government officials and police, are subject to thorough investigations and robust prosecutions, and that sufficiently effective and dissuasive penalties are imposed in practice. It also requests the Government to continue to provide information on the number of investigations, prosecutions, convictions and penal sanctions applied in this regard.***

Article 3(d) and application of the Convention in practice. Hazardous work on tobacco and cotton plantations. The Committee previously noted that studies on child labour in Kazakhstan revealed that children were mostly engaged in the informal and agricultural sectors, particularly in tobacco and cotton harvesting. The Committee also noted that the revised list of types of hazardous work prohibited to children under the age of 18 years, which was approved by Order No. 391 of May 2015, prohibits the hiring of minors on tobacco and cotton plantations. The Government stated that Kazakh tobacco cultivation had been excluded from the United States Department of Labor's List of Agricultural Crops Grown using child labour. However, the August 2014 Report of the United Nations Human Rights Council's Special Rapporteur on contemporary forms of slavery indicated that despite the commitment and support of the tobacco industry and steps taken to increase protection of migrant workers, cases of hazardous child labour persist on some farms. The Committee further noted that the CRC, in its concluding observations of 2015, expressed concern about the incidence of child labour in cotton harvesting, which involves the lifting or carrying of heavy weights, poor working conditions and health risks related to fertilizers and pesticides.

The Committee notes the Government's information that the fine for an employer who engages minors in work that is prohibited for employees under 18 years of age has been significantly increased (from 700 to 2,000 monthly national units, or around US\$12,200). The offence is also punishable by restriction of freedom for up to two years, or by imprisonment for the same period (accompanied by loss of right to hold certain posts or undertake certain activities for up to three years). The Committee notes from the Government's report under the Minimum Age Convention, 1973 (No. 138), that, during the reporting period, two criminal prosecutions were initiated for offences under section 153 of the Criminal Code, which addressed serious violations of labour law in respect of minors. Moreover, 52 complaints were submitted to the prosecutor's office, as well as to the labour and social protection authorities for further action. The Government states that minors are most frequently employed in picking cotton in the Martaaral district of Turkistan province. However, as a result of the work carried out by the Turkistan provincial authorities, the number of children employed in cotton-harvesting is decreasing every year. Moreover, the local authority of South Kazakhstan province and the Sana Sezim women's legal initiative centre have carried out a series of measures to prevent the use of child labour in cotton farming. With the cooperation of business, economic pressure is also imposed on agricultural producers. For example, a leading tobacco company includes a clause prohibiting the use of child and forced labour in its contracts with small tobacco farmers in Almaty province. ***The Committee requests the Government to continue to take measures to protect children from hazardous work in agriculture, particularly in cotton plantations. In this regard, the Committee requests the Government to continue to provide information on the number of inspections carried out by competent authorities and the number of violations detected and penalties applied, related to hazardous work performed by children under 18 years of age. It further requests the Government to provide information on the number of children identified and withdrawn from hazardous work in agriculture as well as on the direct services provided to children at risk.***

The Committee is raising other matters in a request addressed directly to the Government.

Kenya

Minimum Age Convention, 1973 (No. 138) (ratification: 1979)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments initially made in 2015.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted the information provided by the Government representative of Kenya to the Conference Committee in June 2013 concerning the various efforts taken to improve the child labour situation through legislative and constitutional reforms, technical assistance and relevant projects and programmes, including "Tackling child labour through education" (TACKLE) and Support to the National Action Plan (SNAP) project implemented with the support of the ILO-IPEC. It noted, however, that the Conference Committee, in its conclusions of June 2013, while noting the various measures taken by the Government to combat child labour, expressed its deep concern at the high number of children who were not attending school and were involved in child labour, including hazardous work, in Kenya. Additionally, the Committee noted that according to the findings of the ILO-IPEC Labour Market Survey carried out in the districts of Busia and Kitui in 2012, over 28,692 children were involved in child labour in the district of Busia, most of them involved in farm work, domestic work, street vending or engaged in drug trafficking. The survey report in the district of Kitui indicated that 69.3 per cent of children above 5 years of age were reported to be working, the

majority of them between the ages of 10–14 years. Of these, 27.7 per cent were involved in farm work, 17 per cent in domestic work, 11.7 per cent in sand harvesting and 8.5 per cent in stone crushing and brick making.

The Committee notes the Government's indication that it has established several social support programmes, including cash transfer programmes aimed at providing income security to vulnerable groups in society where children may be forced to drop out of school. It also notes that according to the report of the SNAP project of January 2014, a total of 8,489 children (4,687 girls and 3,802 boys) were prevented and withdrawn from child labour. The Committee further notes that the ILO–IPEC, through the Global Action Programme (GAP 11) has supported several activities including the carrying out of a situational analysis for child domestic workers in Kenya. Accordingly, a roadmap on strengthening the institutional and legislative framework for the protection of child domestic workers has been adopted. While noting the various measures taken by the Government, the Committee notes from the SNAP project report of 2014 that child labour remains a developmental challenge in Kenya that is linked to issues such as access to education, skills training and related services, social protection and the fight against poverty. ***The Committee therefore strongly encourages the Government to strengthen its efforts to improve the situation of children under the age of 16 years and to ensure the progressive elimination of child labour, including domestic work by children, in the country. It requests the Government to continue providing information on the measures taken in this regard, as well as the results achieved. In addition, the Committee requests the Government to take the necessary measures to make available updated statistical information on the employment of children and young persons in the country.***

Article 3(2). Determination of hazardous work. The Committee previously noted the Government's statement that the list of types of hazardous work prohibited to children under 18 years which had been approved by the National Labour Board would be incorporated into the Employment Act Regulations of 2013 and would be adopted soon. It requested the Government to ensure that the Regulations would be adopted in the near future.

The Committee notes with **satisfaction** that the fourth schedule of the Employment (General) Rules, adopted in 2014, contains a list of 18 sectors including 45 types of work prohibited to children under the age of 18 years (section 12(3) read in conjunction with section 24(e)). These sectors include: domestic work; transport; internal conflicts; mining and stone crushing; sand harvesting; miraa picking; herding of animals; brick making; agriculture (working with machinery, chemicals, moving and ferrying heavy loads); industrial undertaking, warehousing; building and construction work (earth digging, carrying stones, shovelling sand, cement, metalwork, welding, work at heights, in confined spaces and with risk of structural collapse); deep lake and sea fishing; matches and fireworks; tannery; urban informal sector and street work (begging); scavenging; tourism; and service work. The Committee further notes that according to section 16 of the Employment (General) Rules, any person who contravenes any of the provisions related to the employment of children, including the prohibition on employing children in the hazardous types of work listed in the fourth schedule, shall be punished with a fine not exceeding 100,000 Kenyan shillings (KES) (approximately US\$982) or to imprisonment for a term not exceeding six months or both. ***The Committee requests the Government to provide information on the application in practice of section 16 of the Employment (General) Rules of 2014, including statistics on the number and nature of violations reported and penalties imposed for the violations pursuant to sections 12(3) and 24(e).***

Article 7(3). Determination of light work. Noting the Government's statement that the regulations prescribing light work in which a child of 13 years of age and above may be employed and the terms and conditions of that employment pursuant to section 56(3) of the Employment Act had been developed, the Committee expressed the firm hope that these regulations would be adopted soon.

The Committee notes with **interest** that according to section 12(4) of the Employment (General) Rules, a child between the ages of 13 and 16 may be employed in any light work contained in the fifth schedule which includes: work performed at school as part of the school curriculum; agricultural or horticultural work not exceeding two hours; delivery of non-bulk newspapers or printed materials; work in shops including shelf stacking; domestic hair dressing; light office work; car washing by hand in private residential settings; and work in a cafe or restaurant provided the nature of work is restricted to waiting on tables. Moreover, section 26 of the Employment (General) Rules prohibits children of 13 and 16 years of age from being employed in work which is likely to be harmful to the child's health and development or which would interfere with the child's education.

Article 8. Artistic performances. The Committee previously noted section 17 of the Children's Act, which provides that a child shall be entitled to leisure, play and participation in cultural and artistic activities. It also noted the Government's information that a regulation on granting of permits for artistic performances has been formulated and forwarded for adoption under the Employment Act Regulations of 2013.

The Committee notes from the Report of the Ministry of Labour, Social Security and Services (Report of the MoLSS) to the ILO direct contacts mission visit of August 2014 that the rules and regulations concerning the participation by children below 18 years in advertising, artistic and cultural activities will be submitted to the Attorney General's Office for gazettment. According to this report, this regulation includes provisions related to contracts of employment, remuneration, hours of work, area of protection and offences and legal proceedings. ***The Committee expresses the firm hope that the regulations concerning the participation of children in artistic performances will be adopted in the near future. It requests the Government to provide a copy, once it has been adopted.***

Noting from the report of the MoLSS of its intention to seek ILO technical assistance in its efforts to combat child labour, the Committee encourages the Government to consider seeking technical assistance from the ILO.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Articles 3(d), 4(1) and 7(2)(a) and (b) of the Convention. ***Hazardous work and effective and time-bound measures to prevent the engagement of children in, and to remove them from, the worst forms of child labour.*** ***Child domestic work.*** The Committee notes that section 12(3), read in conjunction with section 24(e) of the Employment (General) Rules of 2014, prohibits the employment of children under the age of 18 years in various types of hazardous work listed under fourth schedule of the Rules, including domestic work. The Committee also notes that the ILO–IPEC, through the Global Action Programme (GAP 11) has supported several activities, including the carrying out of a situational analysis for child domestic workers in Kenya. According to the GAP report of 2014, the situation analysis revealed that, children over 16 years of age, some of whom started

working at 12–13 years, are involved in domestic work in Kenya. Many are underpaid and work for long hours averaging 15 hours per day and are subject to physical and sexual abuse. It further notes that according to the report entitled *Road Map to Protecting Child Domestic Workers in Kenya: Strengthening the Institutional and Legislative Response*, April 2014, there are an estimated 350,000 child domestic workers in Kenya, the majority of whom are girls between 16 and 18 years of age. The Committee notes with **concern** the large number of children under the age of 18 years who are involved in domestic work and are subject to hazardous working conditions. ***The Committee accordingly urges the Government to take the necessary measures to ensure that its new regulation on hazardous work is effectively applied so as to prevent domestic workers under 18 years of age from engaging in hazardous work. It also requests the Government to take effective and time-bound measures to provide the necessary and appropriate direct assistance to remove children engaged in domestic work from hazardous working conditions and ensure their rehabilitation and social integration. The Committee finally requests the Government to provide information on the measures taken in this regard and on the results achieved, in terms of the number of child domestic workers removed from such situation and rehabilitated.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Kyrgyzstan

Minimum Age Convention, 1973 (No. 138) (ratification: 1992)

The Committee notes the observations of the Kyrgyzstan Federation of Trade Unions (KFTU) received on 5 September 2018 and requests the Government to provide its comments in this respect.

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted that according to the 2007 national child labour survey (CLS) estimates, 672,000 of the 1,467,000 children aged 5–17 years in Kyrgyzstan (45.8 per cent) were economically active. The prevalence of employment among children increases with age: from 32.7 per cent of children aged 5–11 years; to 55 per cent of children aged 12–14 years; and 62.3 per cent of children aged 15–17 years.

The Committee notes that, in the framework of the ILO–IPEC project entitled “Combating Child Labour in Central Asia – Commitment becomes Action” (PROACT CAR Phase III), which aims to contribute to the prevention and elimination of the worst forms of child labour in Kazakhstan, Kyrgyzstan and Tajikistan, a wide array of actions have been undertaken to combat child labour, including its worst forms, in Kyrgyzstan. These include the adoption of the Code on Children of 31 May 2012, section 14 of which bans the use of child labour; a mapping, in 2012, of the legislation and policies on child labour and youth employment in Kyrgyzstan, which aims to identify the link between the elimination of child labour and the promotion of youth employment; the finalization of the Guidelines on Child Labour Monitoring in Kyrgyzstan; as well as a number of action programmes to establish child labour free zones and to establish child labour monitoring systems in various regions of the country. ***The Committee strongly encourages the Government to pursue its efforts towards the progressive elimination of child labour through the ILO–IPEC PROACT CAR Phase III project and to provide information on the results achieved, particularly with respect to reducing the number of children working under the minimum age (16 years) and in hazardous work.***

Article 2(1). Scope of application and labour inspection. The Committee previously noted the Government's information that the Attorney-General of the Republic of Kyrgyzstan and the state labour inspectorate are responsible for the application and enforcement of labour legislation. It noted that the minimum age provisions applied to work carried out at home or in a business, domestic work, hired work, commercial agriculture, and family and subsistence agriculture. However, it noted the statement in a 2006 report of the International Confederation of Free Trade Unions (now the International Trade Union Confederation) that many children were working in family enterprises, domestic services, agriculture (tobacco, cotton, rice), cattle breeding, gasoline sales, car washing, shoe cleaning, selling products at the roadsides, and retail sales of tobacco and alcohol. The Committee also noted the Government's information that child labour was widespread in farms, private enterprises, individual business activities and self-employment.

The Committee notes the Government's information that the Labour Code, by virtue of its section 18, applies to the parties involved in contractual labour relations, that is the worker and the employer. It notes, however, that according to the CLS, the overwhelming majority of child labourers (96 per cent) work in agriculture or home production, and in terms of work status, the overwhelming majority (95 per cent) are unpaid family workers. ***The Committee requests the Government to take immediate measures to ensure that self-employed children, children in the informal economy and children working on family farms benefit from the protection laid down in the Convention. In this regard, it once again requests the Government to indicate any measures adopted or envisaged to strengthen the labour inspection, particularly in the abovementioned sectors. Lastly, the Committee once again requests the Government to provide information on the manner in which the state labour inspectorate and the Attorney-General enforce specific legislative provisions giving effect to the Convention.***

Article 7. Light work. The Committee previously noted that, according to section 18 of the Labour Code, pupils who have reached the age of 14 years may conclude an employment contract with the written consent of their parents, guardians or trustees to perform light work outside school hours, provided that it does not harm their health and does not interfere with their education. The Committee noted that according to sections 91 and 95 of the Labour Code, the working hours for workers aged 14–16 years shall not exceed 24 hours per week, and daily working hours shall not exceed five hours. The Committee therefore requested the Government to indicate the manner in which the attendance at school of children working five hours per day was ensured. It also requested the Government to indicate the activities in which light work by children aged 14–16 years may be permitted.

The Committee notes the information in the 2007 CLS according to which, despite the high employment ratio among children, school attendance is also very high, with 98.9 per cent of children aged 7–14 years and 89.2 per cent of children aged 15–17 years attending school. However, children in employment are also found to have slightly lower school-attendance rates than non-working children. Among non-working children aged 7–17 years, the school attendance rate is estimated to be 97.4 per cent, compared to 94.5 per cent among working children aged 7–17 years, with the difference mainly resulting from the lower

school attendance of older working children. *The Committee requests the Government to take immediate measures to ensure that children under 14 years of age are not engaged in work or employment. With regard to children over 14 years of age engaged in light work, the Committee requests the Government to take the necessary measures to ensure that their school attendance is not prejudiced. The Committee also once again requests the Government to indicate the activities in which light work by children aged 14–16 years may be permitted. If these activities are not yet determined by the law, the Committee urges the Government to take the necessary measures to adopt a list of types of light work activities which are permitted to children over 14 years of age.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2004)

The Committee notes the observations of the Kyrgyzstan Federation of Trade Unions (KFTU), received on 5 September 2018, and requests the Government to provide its comments in this respect.

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2012.

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. The Committee previously noted that section 124(1) of the Criminal Code prohibits the trafficking of persons, and section 124(2) specifies that trafficking in persons under 18 is an aggravated offence. However, the Committee noted the Government's indication to the Committee on the Rights of the Child (CRC) that the victims of trafficking in Kyrgyzstan include women and children who were exploited in the sex industry in Turkey, China and the United Arab Emirates (May 2006, CRC/C/OPSC/KGZ/1, page 10). The Committee further noted that the CRC, in its concluding observations, expressed regret at the lack of statistical data, and the lack of research on the prevalence of national and cross-border trafficking and the sale of children (2 February 2007, CRC/C/OPSC/KGZ/CO/1, paragraph 9).

The Committee notes the information from ILO–IPEC that the Ministry of Foreign Affairs is developing a National Action Plan Against Human Trafficking for 2012–15. The Committee also notes the information from the report of the UN Special Rapporteur on violence against women, its causes and consequences, of 28 May 2010, that trafficking of women and children for sexual exploitation and forced labour continues to be a problem in the country (A/HRC/14/22/Add.2, paragraph 33).

The Committee must once again express its **concern** at the lack of data on the prevalence of child trafficking in Kyrgyzstan, as well as reports of the prevalence of this phenomenon in the country. *The Committee, therefore, requests the Government to pursue its efforts to adopt the National Action Plan Against Human Trafficking, and to provide information on the measures taken within this framework to combat the trafficking of persons under the age of 18, once adopted. The Committee also requests the Government to take the necessary measures to ensure that sufficient data on the sale and trafficking of persons under the age of 18 is made available. In this regard, the Committee once again requests the Government to provide information on the number of infringements reported, investigations, prosecutions, convictions and penal sanctions applied for violations of section 124 of the Criminal Code. To the extent possible, all information provided should be disaggregated by sex and age.*

Clause (b). Use, procuring or offering of children for prostitution. In its previous comments, the Committee noted that section 157(1) of the Criminal Code makes it an offence for a person to involve a minor in prostitution, while sections 260 and 261 of the Criminal Code make enticement into prostitution an offence. The Committee also noted the Government's indication that the number of street children and children in risk groups forced into prostitution was rising. Moreover, the Committee noted that the CRC, in its concluding observations, expressed concern that in a number of cases of child prostitution, investigations and prosecutions had not been initiated, and that child victims may be held responsible, tried and placed in detention (CRC/C/OPSC/KGZ/CO/1, paragraphs 17 and 21). The Committee expressed concern that child prostitution continues in part due to the lack of legal oversight, and that children who are the victims of commercial sexual exploitation risk being regarded as criminals.

The Committee notes the Government's statement that prostitution is one of the forms of child labour targeted by the Programme of Action by the Social Partners for the Elimination of the Worst Forms of Child Labour. However, the Committee also notes the information in the Report of the UN Special Rapporteur on violence against women, its causes and consequences, of 28 May 2010, that adolescent girls in the country are particularly vulnerable to commercial sexual exploitation in urban areas, with the majority of the girls involved coming from rural areas (A/HRC/14/22/Add.2, paragraph 35). *Noting the absence of information on the application in practice of the provisions of the Criminal Code relating to child prostitution, the Committee once again requests the Government to provide this information, in particular statistics on the number and nature of infringements reported, investigations, prosecutions, convictions and sanctions applied. It also requests the Government to take the necessary measures to ensure that children who are used, procured or offered for commercial sexual exploitation are treated as victims rather than offenders. Lastly, the Committee once again requests the Government to indicate whether the national legislation contains provisions specifically criminalizing the client who uses children under 18 years of age for the purpose of prostitution.*

Clause (d). Hazardous work. Children working in agriculture. The Committee previously noted that section 294 of the Labour Code prohibits the employment of persons under the age of 18 years in work with harmful and dangerous conditions (including in the manufacture of tobacco) and that a detailed list of occupations prohibited for persons under 18 years had been approved. Nonetheless, the Committee noted that the use of hazardous child labour in the agricultural sector was widespread, particularly in tobacco, rice and cotton fields, and that in rural areas, regulations prohibiting children from engaging in such work were not strictly enforced. In this regard, the Committee noted the statement in a 2006 report of the International Confederation of Free Trade Unions (now the International Trade Union Confederation) entitled "Internationally recognized core labour standards in Kyrgyzstan" that some schools require children to participate in the tobacco harvest, and that the income from this goes directly to the schools, not the children or their families. This report also indicated that, in some cases, classes are cancelled and children are sent to the fields to pick cotton. The Committee further noted the information from ILO–IPEC that many of the children working in tobacco, rice and cotton fields in Osh and Jalalabat regions faced work-related risks including injuries resulting from the use of heavy equipment, lack of clean drinking water in the fields, exposure to toxic pesticides, insects and rodent bites, and hazards related to tobacco production (skin irritation and intoxication).

The Committee notes the Government's statement that work in the fields is one of the forms of child labour targeted by the Programme of Action by the Social Partners for the Elimination of the Worst Forms of Child Labour. The Committee also notes the Government's statement that 19.7 per cent of child labourers in the country are engaged in the agricultural sector. Furthermore, the Committee notes the continued implementation of a project aimed at eradicating child labour in the tobacco industry, developed by a non-governmental organization and carried out by trade union workers in the agro-industrial sector. The Government states that the goal of the project is to devise and introduce a mechanism for eliminating child labour in two pilot districts in the southern region of the country. Through the project, 1,123 families were given microcredit in 2011 and 131 mutual assistance groups were set up. The Government states that this project has enabled the removal of 3,142 children in the two districts from work in the tobacco industry. In addition, the Committee notes the information from ILO-IPEC of July 2012 that, through the project entitled "Combating Child Labour in Central Asia – Commitment becomes Action (PROACT CAR Phase III)", action has been taken to address hazardous child labour in agriculture. For example, through an action programme to support the establishment of a child labour free zone in Chuy region, implemented by the Trade Unions of Education and Science Workers of Kyrgyzstan (TUESWK) during the period June 2011 to August 2012, 140 children (75 boys and 65 girls) were withdrawn from, or prevented from entering, hazardous child labour in agriculture and the urban informal sector. In addition, 15 children (six boys and nine girls) were withdrawn from hazardous child labour in agriculture in the first six months of 2012 through a school-based package of services, including non-formal education, reintegration into formal education, school supplies, monthly food baskets, extra-curricular activities, awareness raising, recreational activities and family counselling. ***Taking due note of the measures taken by the Government, the Committee urges the Government to pursue its efforts to ensure that persons under 18 years of age are protected against hazardous agricultural work, particularly in the cotton, tobacco and rice-growing sectors, and to provide information on the results achieved through the abovementioned initiatives. It also requests the Government to take the necessary measures to ensure the effective enforcement of regulations prohibiting children's involvement in hazardous agricultural work, and to provide information on the steps taken in this regard, in its next report.***

Article 7(2). Effective and time-bound measures. Clause (b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Trafficking in children. The Committee previously noted a disparity between the number of trafficking victims identified and the number of victims receiving assistance, and it requested the Government to strengthen its efforts in this regard.

The Committee notes the information from the International Organization for Migration that it is implementing a project entitled "Combating Trafficking in Persons in Central Asia: Prevention, Protection and Capacity Building" in the country from 2009–12, which includes awareness raising and assistance for victims. The Committee also notes the implementation in Kyrgyzstan of the Joint Programme to Combat Human Trafficking in Central Asia of the ILO, the United Nations Development Programme and the United Nations Office on Drugs and Crime under the UN Global Initiative to Fight Human Trafficking, which includes support for the development of national referral mechanisms established between law enforcement agencies and civil society organizations. ***The Committee requests the Government to provide information on the measures taken, including through these projects, to provide the necessary and appropriate direct assistance for the removal of child victims of trafficking, and for their rehabilitation and social integration. It also requests the Government to supply information on the results achieved, including the number of victims of trafficking under the age of 18 who have benefited from repatriation and rehabilitative assistance.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Lao People's Democratic Republic

Minimum Age Convention, 1973 (No. 138) (ratification: 2005)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Article 3(1) and (2) of the Convention. Minimum age for admission to, and determination of, hazardous work. The Committee notes that, pursuant to article 102 of the Labour Law Amendment Act of 2013, the list of hazardous work prohibited to children under 18 years of age is specified separately. The Committee also notes with **satisfaction** that the Ministerial Decree on the List of Hazardous Work for Young Persons was adopted in 2016. Section 3 contains a comprehensive list of types of hazardous work prohibited to young persons under 18 years of age, such as work handling with chemical and poisonous substances, work which carries the risk of infection with communicable diseases, work with sharp tools, work in the tobacco industry, and so on. The Committee also notes that, according to section 6, individuals or legal entities who violate this decree shall be responsible in both civil and criminal procedures depending on the severity of the violation. ***The Committee requests the Government to provide information on the implementation of the Ministerial Decree on the list of types of hazardous work for young persons, including the number and nature of violations regarding young persons engaged in hazardous work, as well as the penalties imposed.***

Article 7. Light work. The Committee previously noted that according to article 101 of the Labour Law Amendment Act of 2013, children between the ages of 12 and 14 years may be employed in light work, defined as work that will not negatively impact the child's physical or mental health and does not obstruct their attendance at school or vocational training, and a list of types of light work shall be defined in a separate regulation.

The Committee notes with **satisfaction** that the Ministerial Decree on the List of Light Work for Young Persons has been adopted in 2016. Pursuant to sections 1 and 2, children aged 12–14 years are permitted to perform light work which will not jeopardize their physical, moral or mental development and education. Section 3 contains a comprehensive list of types of light work permitted in services, industry and handicraft, as well as in agriculture. Section 4 further provides that a child is not allowed to work more than two hours per day on school days or six hours per day during vacations. Moreover, a child shall not perform overtime work, work between 6 p.m. and 6 a.m., and other types of work as specified in section 5.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hope that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)

Articles 3(a) and 7(1) of the Convention. Worst forms of child labour and penalties. Trafficking and commercial sexual exploitation. Following its previous comments, the Committee notes the Government's information that it is taking measures to implement the Anti-Human Trafficking Law, 2015, in order to combat the trafficking and commercial sexual exploitation of children. The Committee notes from the combined third to sixth periodic reports submitted by the Lao People's Democratic Republic under Article 44 of the Convention on the Rights of the Child, 25 October 2017 (combined periodic reports under the Committee on the Rights of the Child (CRC)) that the Anti-Human Trafficking Law imposes a sentence of 15 to 20 years of imprisonment and a fine for trafficking offences where the victims are children (CRC/C/LAO/3-6, paragraph 188). This report also indicates that from 2013 to 2015, the Ministry of Public Security received 78 complaints involving 125 child victims of trafficking (58 girls) which resulted in 35 convictions. The Committee also notes from the report of the National Commission for the Advancement of Women and Mothers and Children (NCAW-MC) on the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC) of 5 June 2018 (NCAW-MC report on the OPSC) that, according to the People's Supreme Court record, there were 269 cases involving trafficking of children in 2016 and 264 such cases in 2017. The Committee notes, however, that the CRC, in its concluding observations on the report of the Lao People's Democratic Republic under the OPSC of 3 July 2015, expressed concern at the large number of cases of trafficking and sexual exploitation of children not leading to a conviction owing to traditional out-of-court settlements at the village level and the failure of the judicial authorities to enforce the law. The CRC also expressed concern that the prosecution of foreign traffickers is rare and impunity remains pervasive, primarily because of corruption and the alleged complicity of law enforcement, judiciary and immigrations officials (CRC/C/OPSC/LAO/CO/1, paragraph 31). ***The Committee urges the Government to take the necessary measures to ensure that, in practice, thorough investigations and prosecutions are carried out for persons who engage in the trafficking of children, including foreign nationals and state officials suspected of complicity, and that sufficiently effective and dissuasive sanctions are imposed. The Committee requests the Government to provide information on the number of investigations, prosecutions, convictions and penal sanctions applied for the offence of trafficking in persons under 18 years of age, in accordance with the provisions of the Anti-Human Trafficking Law.***

Clause (d). Children at special risk. Commercial sexual exploitation of children. The Committee notes from the combined periodic reports under the CRC that an initiative entitled "Project Childhood" funded by Australian AID to combat the sexual exploitation of children, mainly in travel and tourism in the Greater Mekong Region was introduced in Lao People's Democratic Republic. Under this project, a number of educational materials were developed for the tourism sector, community representatives, parents and guardians of children and young persons. Moreover, several training sessions and workshops were held with relevant stakeholders, including community police. The Committee also notes from the NCAW-MC report on the OPSC, the various measures taken by the Government, including developing regulations on the administration of hotels and guest houses and measures for monitoring compliance of such regulations through inspections; conducting awareness-raising workshops on child prostitution; and the distribution of booklets, posters and brochures to hotels and entertainment units on the protection of women and children. The Committee notes, however, that the CRC, in its concluding observations under the OPSC, expressed serious concern that children are being sexually exploited by foreign paedophiles and at the Government's incapacity to effectively address the issue (CRC/C/OPSC/LAO/CO/1, paragraph 27). ***The Committee urges the Government to take effective and time-bound measures to protect children from becoming victims of commercial sexual exploitation in the tourism sector. In this regard, it requests the Government to continue to take measures to raise the awareness of the actors directly related to the tourism industry, such as associations of hotel owners, tourist operators, associations of taxi drivers, as well as owners of bars and restaurants and their employees, on the subject of commercial sexual exploitation. It also requests the Government to provide information on the measures taken in this regard and the results achieved, including the impact of the Project Childhood initiative in combating the commercial sexual exploitation of children.***

The Committee is raising other matters in a request addressed directly to the Government.

Lebanon

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Article 2(1) of the Convention. Scope of application. In its earlier comments, the Committee noted that the Labour Code only applies to work performed under an employment relationship (by virtue of sections 1, 3 and 8 of the Code). The Committee recalled that the Convention applies to all branches of economic activity and covers all types of employment or work, whether they are carried out on the basis of an employment relationship or not, and whether they are remunerated or not. The Committee also noted that under Chapter 2, section 15, of the draft amendments to the Labour Code, it seemed that the employment or work of young persons would also include non-traditional forms of employment relationship. The Committee therefore requested that the Government provide information on the progress made in relation to the adoption of the provisions of the draft amendments to the Labour Code.

The Committee notes an absence of information in the Government's report on this point. *Considering that the Government has been referring to the draft amendments to the Labour Code for a number of years, the Committee once again expresses the firm hope that the Government will take the necessary steps to ensure that the amendments to the Labour Code relating to self-employed children and children in the informal economy are adopted in the very near future. The Committee requests that the Government provide a copy of the new provisions, once adopted.*

Article 2(2). Raising the minimum age for admission to employment or work. In its earlier comments, the Committee noted that, at the time of ratifying the Convention, Lebanon declared 14 years as the minimum age for admission to employment or work and that Act No. 536 of 24 July 1996, amending sections 21, 22 and 23 of the Labour Code, prohibits the employment of young persons before the age of 14. The Committee also noted the Government's intention to raise the minimum age for admission to employment or work to 15 years of age and that the draft amendments to the Labour Code would include a provision in this regard (section 19). The Committee requested that the Government provide information on the progress made in the adoption of the provisions of the draft amendments to the Labour Code on the minimum age for employment or work.

The Committee notes the Government's indication in its report that the Committee's comments have been taken into account in the draft amendments to the Labour Code. The draft has also been submitted to the Council of Ministers for its examination. *The Committee once again requests that the Government provide information on any progress made in the adoption of the provisions of the draft amendments to the Labour Code regarding the minimum age for employment or work.*

Article 2(3). Compulsory education. In its earlier comments, the Committee noted that the age limit for compulsory education is 12 years of age (Act No. 686/1998 relating to free and compulsory education at the primary school level). The Committee also noted the Government's indication that a draft law aimed at raising the minimum age of compulsory education to 15 years had been sent to the Council of Ministers for examination. The Committee requested that the Government indicate the progress made in this regard.

The Committee notes the Government's indication that the Ministry of Labour took into account the Committee's comments which were inserted in the draft amendments to the Labour Code. Moreover, the Committee notes that in its 2016 concluding observations, the UN Committee on Economic, Social and Cultural Rights is concerned at the number of children, especially refugee children, who are not in school or have quit school owing to the insufficient capacity of the educational infrastructure, the lack of documentation, and the pressure to work to support their families, among other reasons (E/C.12/LBN/CO/2, paragraph 62).

In this regard, the Committee recalls the necessity of linking the age of admission to employment to the age limit for compulsory education. If the two ages do not coincide, various problems may arise. If the minimum age for admission to work or employment is lower than the school leaving age, children may be encouraged to leave school as children required to attend school may also be legally authorized to work (see 2012 General Survey on the fundamental Conventions, paragraph 370). Noting the Government's intention to raise the age of completion of compulsory schooling to 15 years, the Committee once again reminds the Government that pursuant to *Article 2(3)* of the Convention, the minimum age for admission to employment (currently 14 years) should not be lower than the age of completion of compulsory schooling. *Therefore, the Committee urges once again the Government to intensify its efforts to raise the minimum age for admission to employment or work to 15 years, and to provide for compulsory education up until that age, within the framework of the adoption of the draft amendments to the Labour Code. The Committee requests that the Government provide a copy of the new provisions, once adopted.*

Article 6. Vocational training and apprenticeship. In its earlier comments, the Committee noted that the Government had stated that the draft amendments to the Labour Code (section 16) had set the minimum age for vocational training under a contract at 14 years. The Committee expressed the firm hope that such a provision under the draft amendments would be adopted in the near future.

The Committee notes the Government's indication that section 16 will be adopted along with the draft amendments to the Labour Code. The Government also indicates that the National Centre for Vocational Training is in charge of carrying out vocational training and apprenticeships. *The Committee once again expresses the firm hope that section 16 of the draft amendments to the Labour Code, setting a minimum age of 14 years for entry into an apprenticeship, in conformity with Article 6 of the Convention, will be adopted in the very near future.*

Article 7. Light work. In its earlier comments, the Committee noted that under section 19 of the draft amendments to the Labour Code, employment or work of young persons in light work may be authorized when they complete 13 years of age under certain conditions (except in different types of industrial work in which the employment or work of young persons under the age of 15 years is not authorized). The Committee also noted that light work activities would be determined by virtue of an Order from the Ministry of Labour. The Committee requested that the Government provide information on any progress made in this regard.

The Committee notes the Government's indication that it has asked for light work to be included in the ongoing ILO-IPEC Project "Country level engagement and assistance to reduce child labour in Lebanon" (CLEAR Project) and that a few meetings have been held in this regard. The Government indicates that, once the CLEAR Project is launched, it will be able to prepare a statute on light work in accordance with the relevant international standards. *The Committee once again requests that the Government take the necessary measures to ensure the formulation and adoption of a statute determining light work activities, including the number of hours during which, and the conditions in which, light work may be undertaken. It requests that the Government provide information on the progress achieved.*

The Committee is raising other points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Articles 3, 7(1) and (2)(b) of the Convention. Worst forms of child labour, penalties and direct assistance for rehabilitation and social integration. Clause (a). All forms of slavery or practices similar to slavery. Trafficking. In its previous comments, the Committee noted the adoption of the Anti-Trafficking Act No. 164 (2011). The Committee requested the Government to provide information on the application of this Act, in practice.

The Committee notes the statistical information related to trafficking of children provided by the Government in its report. It notes that in 2014, five child victims of trafficking for labour exploitation (street begging), and one child victim of trafficking for sexual exploitation, were identified. According to the Government's indication, all the child victims identified were referred to social and rehabilitation centres, such as the "Beit al Aman" shelter in collaboration with Caritas. The Government also indicates that in 2014 the Higher Council for Childhood drafted a sectorial Action Plan on Trafficking of Children that is still under consultations with the relevant stakeholders.

The Committee also notes that in its 2015 concluding observations, the UN Committee on the Elimination of Discrimination against Women (CEDAW) recommended the Government to provide mandatory gender-sensitive capacity-building for judges, prosecutors, the border police, the immigration authorities and other law enforcement officials to ensure the strict enforcement of Act No. 164 to combat trafficking by promptly prosecuting all cases of trafficking in women and girls (CEDAW/C/LBN/CO/4-5, paragraph 30(a)). *The Committee requests the Government to take the necessary measures to ensure that the draft sectorial Action Plan on Trafficking of Children is adopted in the near future, and to provide information on any progress made in this regard. The Committee also requests the Government to continue to provide information on the application in practice of Act No. 164 of 2011, including statistical information on the number of investigations, prosecutions, convictions and penal sanctions applied for the offence of trafficking of children. Lastly, the Committee requests the Government to provide information on any measures adopted in order to prevent trafficking of children as well as measures taken to ensure that child victims of trafficking are provided with appropriate rehabilitation and reintegration services.*

Clauses (b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities, in particular for the production and trafficking of drugs. In its previous comments, the Committee noted that under section 33(b) and (c) of the draft amendments to the Labour Code, the use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities is punishable under the Penal Code, in addition to the penalties imposed by the Labour Code. It also noted that section 3 of Annex No. 1 of Decree No. 8987 of 2012 on hazardous work prohibits such illicit activities for minors under the age of 18. The Committee noted the statistical information (disaggregated by gender and age) provided by the Government on the number of children found engaged in prostitution from 2010 to 2012.

The Committee notes the Government's indication that the labour inspectorate is the body responsible for the supervision of the implementation of Decree No. 8987. The Committee notes with *concern* that according to the Government's indication no cases related to the application of the Decree have been detected so far. *The Committee urges the Government to take immediate and effective measures to ensure the application in practice of the provisions of Decree No. 8987 of 2012 prohibiting the engagement of children for prostitution or pornographic purposes or for illicit activities. The Committee requests the Government to provide statistical information on any prosecutions and convictions made with regard to the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.*

As for the draft amendments to the Labour Code, the Committee once again requests the Government to take the necessary measures without delay to ensure the adoption of the provisions prohibiting the use, procuring or offering of persons under the age of 18 for the production of pornography or for pornographic performances, and the use, procuring or offering of persons under the age of 18 for illicit activities, as well as of the provisions providing for the penalties imposed.

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. 1. Refugee children. In its previous comments, the Committee requested the Government to provide information on the measures taken within the work programme of the National plan of action on the elimination of child labour (NAP-WFCL) for working Palestinian children to protect them from the worst forms of child labour.

The Committee notes the Government's indication that no new measures have been taken due to the political and security situation in the country. The Committee also notes that according to the 2016 United Nations High Commissioner for Refugees (UNHCR) report entitled "Missing out: Refugee Education in Crisis", there are more than 380,000 refugee children between the ages of 5 and 17 registered in Lebanon. It is estimated that less than 50 per cent of primary school-age children have access to public primary schools and less than 4 per cent of young persons have access to public secondary schools. The report highlights that since 2013 the Government has introduced a two-shift system in public schools to encourage the enrolment of refugee children. About 150,000 children have entered this system. It also notes from the ILO report entitled "ILO response to the Syrian Refugee crisis in Jordan and Lebanon", of March 2014, that many refugee children are working in hazardous conditions in the agricultural and urban informal sector, street peddling or begging. *While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take effective and time-bound measures to protect refugee children (in particular Syrian and Palestinian) from the worst forms of child labour and to provide the necessary and appropriate direct assistance for their removal and for their rehabilitation and social integration. It requests the Government to provide information on the number of refugee children who have benefited from any initiatives taken in this regard, to the extent possible disaggregated by age, gender and country of origin.*

2. Children in street situations. The Committee notes the Government's indication that the Ministry of Social Affairs has taken a series of measures to address the situation of street children, including: (i) undertaking activities to raise awareness through education, media and advertisement campaigns; (ii) training of a certain number of social protection actors/players working in child protection institutions; (iii) providing rehabilitation activities for a certain number of street children and their reintegration in their families; (iv) within the framework of the Poverty Reduction Strategy (2011–13) 36,575 families have been chosen to benefit from free basic social services, such as access to free compulsory public education as well as medical facilities. The Government also indicates that the 2010 draft "Strategy for Protection, Rehabilitation and Integration of Street Children" has not been implemented yet, but is in the process of being revised.

The Committee notes the 2015 study "Children Living and Working on the Streets in Lebanon: Profile and Magnitude" (ILO–UNICEF–Save the Children International) which provides detailed statistical information on the phenomenon of street-based children across 18 districts of Lebanon. The Committee also notes that the report comprises a certain number of recommendations, including: (i) enforcing relevant legislation; (ii) reintegrating street-based children into education and providing basic services; and (iii) intervening at the household-level to conduct prevention activities. The Committee further observes that despite street work being one of the most hazardous forms of child labour under Decree No. 8987 on hazardous forms of child labour (2012), it is still prevalent with a total of 1,510 children found to be living or working on the streets. Moreover, the Committee notes that in its 2016 concluding observations, the UN Committee on Economic, Social and Cultural Rights recommended that the Government raise resources so as to provide the necessary preventive and rehabilitative services to street children and enforce existing legislation aimed at combating child labour (E/C.12/LBN/CO/2, paragraph 45). *Recalling that street children are particularly vulnerable to the worst forms of child labour, the Committee urges the Government to*

strengthen its efforts to protect these children, and to provide for their rehabilitation and social reintegration. The Committee also urges the Government to take the necessary measures to actively implement the 2010 draft strategy entitled “Strategy for Protection, Rehabilitation and Integration of Street Children”, once revised and report on the results achieved. Finally, the Committee requests the Government to provide information on the number of street children who have been provided with educational opportunities and social integration services.

The Committee is raising other matters in a request directly addressed to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Lesotho

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour. The Committee previously noted the Government’s information that the draft Action Plan for the Elimination of Child Labour (APEC) was in the process of being adopted.

The Committee notes with *interest* that the APEC 2013–17 has been adopted by the Government. It notes that the overall objective of the APEC is to reduce the incidence of child labour to less than 1 per cent by 2016, while laying a strong policy and institutional foundation for eliminating all other forms of child labour in the longer term. *The Committee requests the Government to provide detailed information on the concrete measures taken within the framework of the APEC for eliminating child labour as well as the results achieved.*

Article 2(1). Scope of application and labour inspectorate. Self-employment and work in the informal economy. In its previous comments, the Committee noted that the provisions of the Labour Code excluded self-employment from its scope of application.

The Committee notes from the APEC document that the Labour Code Amendment Bill, which is in its final stage of adoption, addresses a number of child labour concerns, including strengthening the protection of children working in the informal economy as well as extending the labour inspection services to the informal economy. The Committee also notes that the Ministry of Labour and Employment, with ILO support, established a Child Labour Unit which will assist in the protection of children working in the informal economy. Moreover, the Committee notes the Government’s information that in February 2015, the relevant ministries along with other NGOs undertook a mission to withdraw children working in the informal economy in the business hub of the Leribe district. Most of the children withdrawn were either enrolled at schools or reunited with their families. However, the Committee notes from the compilation report of November 2014, prepared by the Office of the High Commissioner for Human Rights for the Universal Periodic Review, that, according to the submissions made by the United Nations Country Team of Lesotho, children continued to work in domestic service, street vending and in agriculture (A/HRC/WG.6/21/LSO/2, paragraph 43). Moreover, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), in its List of Issues of September 2014, expressed concern about the high number of children engaged in animal herding, street trading, and domestic work (CMW/C/LSO/QPR/1, paragraph 29). *The Committee accordingly strongly encourages the Government to strengthen its efforts to ensure that the protection afforded by the Convention is granted to children carrying out economic activities without an employment agreement, including self-employed children and children working in the informal economy. In this regard, it requests the Government to provide information on the activities undertaken by the Child Labour Unit to assist in the protection of children working in the informal economy, and the results achieved. The Committee also requests the Government to indicate any progress made with regard to the adoption of the Labour Code Amendment Bill which contains provisions protecting children working in the informal economy and extends labour inspection services to the informal economy.*

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted that, according to the Education Act of 2010, the age of completion of compulsory education is 13 years in Lesotho, two years before a child is legally eligible to work (15 years). It also noted that the Government would make education compulsory up to the minimum age for employment of 15 years.

The Committee notes the Government’s indication that the Ministry of Education, in collaboration with the Ministry of Social Development, is working to make education free and compulsory at the secondary level. The Committee once again reminds the Government that if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (see 2012 General Survey on the fundamental Conventions, paragraph 371). *Recalling once again that education is one of the most effective means of combating child labour, the Committee urges the Government to take the necessary measures to ensure compulsory education up to the minimum age of employment of 15 years. It requests the Government to provide information on any measures taken in this regard, including measures taken under the APEC.*

Article 6. Minimum age for admission to apprenticeship. The Committee previously noted the Government’s indication that there was no minimum age for admission to apprenticeships. It noted the Government’s statement that a committee composed of representatives from the Department of Labour, the Ministry of Gender and Youth, the Ministry of Education and Training, the social partners and other relevant stakeholders was established to address the issue of apprenticeships.

The Committee notes the absence of information in the Government’s report on this point. In this regard, the Committee once again reminds the Government that, pursuant to *Article 6* of the Convention, the minimum age for admission to work in undertakings in the context of vocational training or an apprenticeship programme cannot be below 14 years. *It therefore once again requests the Government to take the necessary measures, within the framework of the inter-ministerial committee appointed on this subject, to ensure that no child under 14 years of age is permitted to undertake an apprenticeship in an enterprise. It requests the Government to provide information on steps taken in this regard.*

Application of the Convention in practice. The Committee notes the Government’s information that the proposed labour force survey, which includes a child labour module, will be conducted and that the data related to child labour will be available in 2017. *The Committee expresses the firm hope that the Government will take the necessary measures to conduct the labour*

force survey as proposed. It requests the Government to provide information on the results of the survey with regard to the situation of working children in Lesotho, including, for example, data on the number of children and young persons below the minimum age who are engaged in economic activities and statistics relating to the nature, scope and trends of their work.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 3 of the Convention. Worst forms of child labour. Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. In its previous comments, the Committee noted that street children were used by adults in illegal activities, such as housebreaking and petty theft. It had requested the Government to take the necessary measures to prohibit the use, procuring or offering of a child under 18 for illicit activities.

The Committee notes with *interest* that, according to section 45(b) of the Children's Protection and Welfare Act of 2011, a person who causes or allows a child (defined as a person under the age of 18 years pursuant to section 3 of the same Act) to be on any street, premises or place for the purposes of carrying out illegal hawking, gambling or other illegal activities shall be liable to a fine not exceeding 10,000 Lesotho maloti (approximately US\$722) or imprisonment for a term not exceeding ten months or to both. *The Committee requests the Government to provide information on the application of section 45(b) of the Children's Protection and Welfare Act, including the number of offences detected related to the use of children under 18 years for illegal activities and penalties applied.*

Clause (d). Hazardous work. Child domestic work. The Committee previously noted that girls performing domestic work face verbal, physical and, in some cases, sexual abuse from their employers, and that these children generally did not attend school. It also noted the Government's statement that it would consider promulgating regulations on domestic work to prohibit hazardous work in this sector to children under 18.

The Committee notes the absence of information in the Government's report. However, it notes from the compilation report of November 2014, prepared by the Office of the High Commissioner for Human Rights for the Universal Periodic Review that, according to the submissions made by the United Nations Country Team of Lesotho, children continued to work in domestic service (A/HRC/WG.6/21/LSO/2, paragraph 42). Moreover, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), in its List of Issues of September 2014, expressed concern about the high number of children engaged in domestic work (CMW/C/LSO/QPR/1, paragraph 29). *The Committee therefore once again urges the Government to take immediate and effective measures to ensure that child domestic workers are protected from hazardous work. In this regard, it requests the Government to take the necessary measures to ensure the development and adoption of regulations which prohibit hazardous domestic work to all children under 18 years of age. It requests the Government to provide a copy of these regulations, once adopted.*

Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. Children engaged in animal herding. In its previous comments, the Committee noted that children engaged in animal herding often worked under poor conditions for long hours and during night, without adequate food and clothing, were exposed to extreme weather conditions in isolated areas, and did not attend school. It also noted that between 10 and 14 per cent of boys of school-going age were involved in herding, about 18 per cent of whom were not employed by their own family.

The Committee notes that the Government adopted guidelines for the agricultural sector, with special attention to herd boys. According to the guidelines, children under 13 years should not herd livestock, except under the supervision of parents, employers or an adult, while children under 15 years are prohibited from herding in remote areas. The guidelines also require that herd boys should be provided with adequate clothing to suit the extreme weather conditions, adequate food and medical assistance as well as safe and proper accommodation. Moreover, their working time shall not exceed more than 21 hours during school weeks and not more than 30 hours during school holidays, and night work is prohibited. *The Committee urges the Government to take effective and time-bound measures to ensure that children who are engaged in hazardous work in animal herding are removed from this worst form of child labour and are rehabilitated and socially integrated. In this regard, it requests the Government to provide information on the implementation of the guidelines for the agricultural sector and the results achieved.*

The Committee is raising other points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Liberia

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Article 4(1) of the Convention. Determination of hazardous work. In its previous comments, the Committee expressed the firm hope that the Decent Work Bill, which contains a provision prohibiting the engagement of children under the age of 18 years in hazardous types of work would be adopted in the near future. It also expressed the hope that a regulation specifying hazardous types of work and processes prohibited to children under 18 years of age would be developed after consultation with the organizations of employers and workers concerned.

The Committee notes with *interest* that the Decent Work Act of 2015 has been enacted. It notes that Chapter 21, section 21.4(a) of the Decent Work Act prohibits the employment of children under the age of 18 years in those types of hazardous work enumerated under Paragraph 3 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190). Section 21.4(b) further states that the minister shall, within 12 months from the coming into force of this Act, issue regulations specifying further types of work that may be prohibited to children and identify hazardous processes, temperatures, noise levels or vibrations that are dangerous to the health of children. In this regard, the Committee notes the Government's information, in its report, that the Law Reform Committee has prepared a draft list of types of hazardous

work prohibited to children and that consultations with stakeholders on its finalization are ongoing. *The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the draft list of types of hazardous work prohibited to children under 18 years of age will be finalized and adopted without delay. It requests the Government to provide information on any progress made in this regard.*

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. The Committee previously noted from the compilation prepared by the Office of the High Commissioner for Human Rights to the Human Rights Council (A/HRC/WG.6/22/LBR/2, 23 February 2015) that according to the United Nations Development Assistance Framework (UNDAF), the gender gap was apparent in education and that illiteracy rates among women and girls were especially high at 60 per cent. It further noted from this report the statement made by the United Nations Country Team in Liberia that, due to the spread of the Ebola Virus Disease (EVD), schools had been ordered to be closed in June 2014 and an estimated 1.4 million students had been forced to stay home. The Committee requested the Government to take the necessary measures to ensure the proper functioning of the education system and to strengthen its efforts to bring back children to schools as well as to take measures to increase the enrolment and completion rates at primary and secondary levels and to provide information in this regard.

The Committee notes the Government's statement that since the last recorded case of Ebola in 2015, proper precautionary measures were taken and that schools were reopened and children were encouraged to return to school. The Government indicates that better mechanisms to keep children at schools and out of child labour are being initiated. In this regard, the Committee notes the information from the publication entitled: *Education in Liberia-Global Partnership for Education*, that in order to address the challenges in the education sector related to the rebuilding and recovery from civil war, constrained national finances, poor infrastructure and the Ebola epidemic, the Government has developed a strategic response through "Getting to Best Education Sector Plan for 2017–21". This plan consists of nine programmes including: (i) improving the efficiency and management of education system; (ii) improving access to quality early childhood education; (iii) providing quality alternative education for overage and out-of school children; (iv) mainstreaming gender and school health across the education sector; and (v) improving the quality and relevance of vocational and technical training. The Committee notes, however, that according to the UNESCO statistics, in 2016, the net enrolment rate was 36.75 per cent in primary education and 10.37 per cent in secondary education. Moreover, there were 572,439 children and adolescents who were out-of school in 2016. The Committee notes with *concern* the low enrolment rates at the primary and secondary levels and the high number of children who are out-of-school. *Considering that education is key in preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to intensify its efforts to improve the functioning of the education system and to facilitate access of all children to free basic education, including through the "Getting to Best Education Sector Plan for 2017–21". It requests the Government to provide information on the concrete measures taken or envisaged in this regard, aimed, in particular at increasing the school enrolment and attendance rates at the primary and secondary levels and reducing school drop-out rates as well as to provide updated statistical information on the results obtained, disaggregated by age and gender.*

The Committee is raising other matters in a request addressed directly to the Government.

Libya

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2017.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 106th Session, June 2017)

The Committee notes the detailed discussion which took place at the 106th Session of the Conference Committee on the Application of Standards in June 2017, concerning the application by Libya of the Convention.

Articles 3(a) and 7(1) of the Convention. All forms of slavery and practices similar to slavery. Compulsory recruitment of children for armed conflict and penalties. In its previous comments, the Committee noted from the Report on the Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya (A/HRC/31/47 and A/HRC/31/CRP.3, detailed findings) of 15 February 2016 (Investigation Report by the OHCHR), that there was information on the forced recruitment and use of children in hostilities by armed groups pledging allegiance to the Islamic State in Iraq and Levant (ISIL). These children were forced to undergo religious and military training (including how to use and load guns and to aim and shoot at targets using live ammunition), watch videos of beheadings, used to detonate bombs, in addition to being sexually abused. This Report, further referring to another report, indicated that the *Islamic State* in Sirte welcomed the graduation of 85 boys below the age of 16, describing them as the "*Khilapha Cubs*" who were trained in conducting suicide attacks.

The Committee notes the observations of the IOE that the position of children affected by armed conflict in the country was deplorable and that the recruitment of children for the purpose of war which included compulsory religious and military training was a calamity for the child's present and future situation.

The Committee notes that the Government representative of Libya, during the discussion at the Conference Committee, while acknowledging the situation of severe political crisis and escalation of violence since 2011, stated that his Government, represented by the Presidency Council of the Government of National Accord had captured the last ISIL position in Sirte on 6 December 2016 and had officially declared the liberation of the city which had been under ISIL control for over one and a half years. Hence, the ISIL's practices against children, including the forcible recruitment of children into their military operations and the prohibition of children from enrolling in school was brought to an end.

The Committee also notes that at the Conference Committee, the Worker members recalled that Libya continued to suffer from armed conflict and that the proliferation of armed groups had led to serious violations and abuses including the forced recruitment and use of children by different armed groups pledging allegiance to ISIL. The Worker member of Libya, added that those children who were recruited by the armed groups were moved to camps in Turkey near the Syrian border, where they were trained for combat with the financial support of those States that supported and exported terrorism.

The Committee notes that the Conference Committee deeply deplored the situation of children who were forcibly required by armed groups pledging allegiance to ISIL to undergo military and religious training.

The Committee notes the Government's information in its report that following the expulsion of the ISIL from Sirte and its suburbs, a post-conflict stabilization plan for Sirte was developed under the supervision of the Presidency Council. Moreover, measures were taken by the Libyan security agencies under the Ministry of Interior to prevent children from being lured or groomed into criminal activity and severe punishments were imposed on persons who were involved in such activity. In addition, at the beginning of 2017, UNICEF, in collaboration with municipalities, launched a national campaign "Together for Children" to ensure that children do not get involved in armed conflict.

The Committee notes, however, from the Report of the Secretary-General on Children and Armed Conflict of 16 May 2018 (A/72/865-S/2018/465, paragraph 106) that cases of use of children by armed groups continue to be reported. In October 2017, 125 adolescents formerly associated with the armed groups in the Zintan municipality were released. The Committee further notes that the Secretary-General expressed concern at the reports of sexual violence and other violations committed against children, including use in armed conflict and trafficking of children. While noting some of the measures taken by the Government, the Committee must express its **deep concern** at the continued use and recruitment of children by armed groups and at the current situation of children affected by armed conflict in Libya, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. ***While acknowledging the difficult situation prevailing in the country, the Committee strongly urges the Government to take the necessary measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed groups. It also urges the Government to continue to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons who forcibly recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

Article 7(2). *Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education.* The Committee previously noted from the Investigation Report by the OHCHR, that access to education in Libya had been significantly curtailed due to the armed conflict, particularly in the east (for example, the Office for the Coordination of Humanitarian Affairs estimated, in September 2015, that 73 per cent of all schools in Benghazi were not functioning). Schools were either damaged, destroyed, occupied by internally displaced persons, converted into military or detention facilities, or were otherwise dangerous to reach. In addition, in many areas where schools remained open, parents refrained from sending their children to school for fear of injury from attacks, especially of girls being attacked, harassed or abducted by armed groups. Moreover, there were reports that in areas controlled by groups pledging allegiance to ISIL, girls were not allowed to attend school or were permitted only if wearing a full face veil. This report further indicated that children residing in camps for the internally displaced persons, faced particular challenges in their access to education.

The Committee notes the Worker members' statement at the Conference Committee that children's access to education had been severely limited and compromised by the conflict in Libya.

The Committee notes that the Conference Committee deeply deplored the situation of children, especially, girls, who were deprived of education due to the situation in the country where although mandatory and free education existed, many schools were damaged and used as military or detention facilities which prohibited children from attending them.

In this regard, the Committee notes the Government's indication that following the expulsion of ISIL, there has been a rise in the number of children enrolled in schools. It also notes that the Government, along with the United Nations Development Programme, undertook the maintenance of a number of schools and by the school year 2017–18, all schools were opened on scheduled time for pupils. The Committee notes, however, from the UNICEF Humanitarian Situation report of September 2018 that around 300,000 children in Libya are in need of education. ***The Committee therefore, urges the Government to take effective and time-bound measures to improve the functioning of the education system in the country and to facilitate access to free basic education for all children, particularly girls, children in areas affected by***

armed conflict, and internally displaced children. It requests the Government to provide information on concrete measures taken in this regard and the results achieved.

Clause (b). Providing the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Children in armed conflict. The Committee notes the Government's indication that in Sirte, the Government social workers are engaged in a project to rehabilitate former child soldiers, which includes medical and psychological assistance as well as enrolling them in educational and training programmes. In addition, the UNICEF national campaign "Together for Children" also involves establishing rehabilitation centres to reintegrate children, including former child soldiers, into schools and the community. The Committee notes, however, from the Report of the Secretary-General (paragraph 107) that in the context of the fight between the Libyan National Army (LNA) and the Petroleum Facilities Guard (PFG), boys as young 10 years of age were arrested and detained for up to seven weeks by the LNA for their alleged association with PFG. The Committee expresses its **deep concern** at the practice of arrest and detention of children for their alleged association with armed forces or groups. In this regard, the Committee must emphasize that children under the age of 18 years associated with armed groups should be treated as victims rather than offenders (see 2012 General Survey on the fundamental Conventions, paragraph 502). **The Committee, therefore, urges the Government to take the necessary measures to ensure that children removed from armed forces or groups are treated as victims rather than offenders. It also urges the Government to continue to take effective and time-bound measures to remove children from armed forces and groups and ensure their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard and on the number of children removed from armed forces and groups, and reintegrated.**

Noting the interest expressed by the Government representative in obtaining technical assistance, the Committee invites the Government to avail itself of technical assistance from the Office in order to facilitate the implementation of the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

Madagascar

Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124) (ratification: 1967)

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA) attached to the Government's report.

Article 2(1) of the Convention. Medical examination of persons under 21 years of age prior to underground work in mines and application of the Convention in practice. The Committee noted previously that section 82 of Decision No. 58-AR of 8 May 1958 setting forth the safety rules applying to mines and quarries provides that no workers may be assigned to underground work without first undergoing a medical examination finding them to be fit for such employment. The Committee also noted that sections 7, 8 and 9 of Order No. 2806 of 8 July 1968 organizing occupational medical services provide in particular that employers must have regular visits organized for periodic medical examinations and that all workers are required to undergo a medical examination including a chest x-ray before taking up employment or no later than the following month. Furthermore, the Committee noted with interest that, under section 8 of Decree No. 2003-1162 of 17 December 2003 organizing occupational medicine, every worker, before taking up employment or no later than the following month, "shall undergo a medical examination consisting of at least an x-ray film of the lungs". Under sections 7 and 9 of the Decree, periodic medical examinations are also compulsory and include "special medical examinations for workers exposed to the risk of occupational diseases". However, the Committee noted the claims of the General Confederation of Workers' Unions of Madagascar (CGSTM) that, to its knowledge, there are no longer any mining companies in Madagascar's formal sector that perform underground work and employ young persons within the meaning of the Convention. The problem does arise, however, in family undertakings in the informal economy, for example in the sapphire mines of the Ilakaka region, in which young persons work up to 50 metres underground without proper safety precautions or ventilation. The CGSTM reported that the absence of adequate legislation means that these young people undergo neither a pre-employment medical examination to ascertain their fitness nor any regular medical checks, and that the Government has not taken any action to solve the problem.

The Committee notes the Government's indication in its report that over 90 per cent of jobs are in the informal economy. The public services have no knowledge of 89 per cent of them on average. The Government states that it is aware of the need for action by labour inspectors in the informal economy. In this regard, the ILO-PAMODEC project, in collaboration with the Directorate of Labour and Promotion of Fundamental Rights (DTPDF) at the Ministry of the Civil Service, Labour and Social Legislation, held a national workshop on 26, 27 and 28 November 2014 for exchanges and discussions between labour inspectors on the effective application of international labour standards in the informal economy. Moreover, the Government indicates that it was agreed that formalization is particularly relevant to four sectors of activity, namely tourism, commerce, agriculture and public works/construction. Furthermore, the Committee notes the observations of SEKRIMA that, as regards underground operations run by families in the informal economy, the situation is currently unchanged since no official action has been taken to eliminate such operations, especially as they appear

spontaneously and are impossible to monitor. Moreover, in general, there is no medical infrastructure established in the region where such operations are found.

The Committee recalls that, under *Article 2* of the Convention, a thorough medical examination, and periodic re-examinations at intervals of not more than one year, for fitness for employment shall be required for the employment or work underground in mines of persons under 21 years of age, regardless of whether the work is performed in the formal sector or the informal economy and whether or not it is based on an employment relationship. ***The Committee requests the Government to take steps to ensure that all children and young persons under 21 years of age enjoy the protection afforded by the Convention, particularly those who work in family undertakings in mining and quarrying in the informal sector. It also requests the Government to provide information on the application of the Convention in practice, including statistics on the number of young persons who are working and have undergone the medical examinations provided for by the Convention, and also the number and nature of any violations recorded by the labour inspection services.***

Article 4(4) and (5). Records pertaining to employees under 21 years of age. In its previous comments, the Committee noted the Government's indication that a record must be kept by the employer and must consist of three parts: personal particulars, data concerning the worker's position within the undertaking and a separate section for official stamps/signatures, observations and warnings from the labour inspector to the undertaking. The Committee noted that although the sample record provided by the Government in its report clearly indicates the employee's date of birth, it contains no indication of the nature of the work and does not include a certificate attesting fitness for employment. The Committee noted, however, that under section 6 of Decree No. 2007-563 on child labour, the employer must keep a record indicating the full name, type of work, wage, hours of work, state of health, details of schooling and the situation of the parents of each child employee under 18 years of age. The Committee also noted the Government's statement that Order No. 129-IGT of 5 August 1957 establishing a standard employer's record, pursuant to section 252 of the Labour Code, is still in force and needs to be revised. The Committee observed that there still appears to be no requirement for employers' records to contain a certificate of fitness for employment in respect of young persons between 18 and 21 years of age engaged in underground work. It asked the Government to take the necessary steps to ensure that employers comply with the obligations of *Article 4(4) and (5)* of the Convention.

The Committee notes the Government's indication that the revision of Order No. 129-IGT very much depends on the resumption of the normal functioning of the National Labour Council (CNT), which is in the process of being made operational. The Government also indicates that, firstly, the DTPDF must carry out the feasibility study in relation to the revision of the Order, taking into account all the points to be included in the draft legislation according to the recommendations of the Committee of Experts. Secondly, the DTPDF, the body performing the role of technical secretary for the CNT, will communicate the draft to the CNT for the requested purposes. The Committee also notes that SEKRIMA refers to Order No. 129-IGT, indicating that it is still in force but is not applied in practice. SEKRIMA also considers that the Government should take the necessary steps to convene the CNT with a view to revising and harmonizing the Labour Code and subsequent legislation in relation to the ratified Conventions. ***The Committee expresses the hope that the Government will take the necessary steps to revise Order No. 129-IGT of 5 August 1957 establishing a standard employer's record. It also requests it to ensure that the new order clearly lays down the obligation for the employer to keep a record indicating in particular the date of birth, the type of work and a certificate of fitness for underground work in respect of each person between 18 and 21 years of age, and to make this record available to workers' representatives on request. The Committee further requests the Government to provide information in its next report on progress made in this regard.***

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), which were received on 17 September 2013.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted that, according to the last National Survey on Child Labour (ENTE), more than one in four children in Madagascar between 5 and 17 years of age (28 per cent) work, namely 1,870,000 children. Most working children are in agriculture and fishing, where most of them are employed as family helpers. As regards children between 5 and 14 years of age, 22 per cent are working and 70 per cent attend school. The Committee also noted the allegations of the General Confederation of Workers' Unions of Madagascar (CGSTM) that many underage children from rural areas are sent to large towns by their parents to work in the domestic sector under conditions that are often dangerous. Moreover, these children have not necessarily completed their compulsory schooling. The Committee previously noted that the National Plan of Action against Child Labour in Madagascar (PNA) was in its extension phase in terms of staffing, beneficiaries and coverage (2010–15). The Government indicated that the workplan of the National Council for Combating Child Labour (CNLTE) for 2012–13 had been adopted. The Government also reported on a number of projects, including the AMAV project against child domestic labour and the plan of action against child labour in vanilla plantations in the Sava region, which was implemented under the ILO–IPEC TACKLE project.

The Committee notes the observations of SEKRIMA stating that the practice of child labour persists in Madagascar. SEKRIMA also highlights a very high drop-out rate during the first five years of schooling.

The Committee notes the Government's indications that the PNA has partly been implemented by mobilization activities under the AMAV project, particularly in the Amoron'i Mania region, with the display of four "Red card against child labour" billboards, the distribution of flyers on combating child domestic labour and awareness-raising activities concerning revision of the *dina* (local convention) in order to incorporate the issue of child domestic labour. Moreover, a total of 125 children between 12 and 16 years of age were withdrawn from domestic labour and trained for the competition to obtain a diploma. The Government also indicates that each year it celebrates the World Day Against Child Labour as a means of mass awareness raising while continuing to display posters in working-class neighbourhoods and hold discussions with parents, local authorities and social partners. It also mentions that there are currently 12 Regional Councils for Combating Child Labour (CRLTEs). The Committee further notes that the capacities of various entities for combating child labour have been reinforced, namely 50 entities involved in vanilla production in the Sava region and 12 in the Antalaha region, 91 members of trade union organizations, 43 journalists and three technicians of the National Institute of Statistics. Lastly, the Committee notes the Government's indication that in 2014 the CNLTE revamped Decree No. 2007-263 of 27 February 2007 concerning child labour and Decree No. 2005-523 of 9 August 2005 establishing the CNLTE, its tasks and structure. Further to a study on hazardous work, 19 types of hazardous work were officially recognized in 2013 and incorporated into the Decree under adoption. While noting the measures taken by the Government, the Committee observes that the 2012 National Survey of Employment and the Informal Sector (ENEMPSI 2012) reveals that 27.8 per cent of children are working, namely 2,030,000 children. The survey also shows that 28.9 per cent of children between 5 and 9 years of age (83,000) and 50.5 per cent of children between 10 and 14 years of age (465,000) do not attend school. **While welcoming the Government's efforts to improve the situation, the Committee urges the Government to intensify its efforts to ensure the progressive elimination of child labour. It requests it to provide information on the results achieved by the implementation of the PNA and also on the activities of the CNLTE and CRLTEs. It requests the Government to provide a copy of the revised version of Decree No. 2007-263, once it has been adopted.**

Article 2(3). Age of completion of compulsory schooling. In its previous comments, the Committee noted that, according to UNESCO, the age of completion of compulsory schooling is lower than the minimum age for admission to employment or work. The Committee observed that the official age of access to primary education is 6 years and the duration of compulsory schooling is five years, meaning that the age of completion of compulsory schooling is 11 years. The Committee noted the CGSTM's allegation that no changes had yet been made by the Government to resolve the problem of the difference between the age of completion of compulsory schooling (11 years) and the minimum age for admission to employment or work (15 years). The Committee noted the Government's indication that the Ministry of Education was pursuing its efforts so as to be able to take measures to resolve the gap between the minimum age for admission to employment or work and the age of completion of compulsory schooling.

The Committee notes the Government's indications that the Ministry of Education organized a "national education convention" in 2014 consisting of in-depth national consultations on the implementation of inclusive, accessible and high-quality education for all. However, the Committee notes with *regret* that the question of the age of completion of compulsory schooling has still not been settled and has remained under discussion for many years. It reminds the Government that compulsory schooling is one of the most effective means of combating child labour, and underlines the need to link the age for admission to employment or work to the age of completion of compulsory schooling, as established in Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). The Committee observes once again that, as stated in the 2012 General Survey on the fundamental Conventions, if compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (paragraph 371). **Observing that the Government has been discussing this matter for ten years, the Committee urges the Government to take measures, as a matter of urgency, to raise the age of completion of compulsory schooling so that it coincides with the age of admission to employment or work in Madagascar. It requests the Government to provide information on the progress achieved in this respect.**

Article 6. Vocational training and apprenticeships. Further to its previous comments, the Committee notes the Government's indication that the Ministry of Employment, Technical Education and Vocational Training has prepared a bill on the national employment and vocational training policy (PNEFP) in collaboration with the ILO and in consultation with the social partners. The Government indicates that the bill is awaiting approval before being submitted to Parliament for adoption. **The Committee requests the Government to take the necessary measures to speed up the adoption of the bill concerning apprenticeships and vocational training. It requests the Government to provide a copy of this legislative text once it has been adopted.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the observations of the International Organisation of Employers (IOE) received on 30 August 2017 and requests the Government to provide its comments in this respect.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the Government's report, received on 25 October 2016, and the in-depth discussion on the application of the Convention by Madagascar in the Committee on the Application of Standards at the 105th Session of the International Labour Conference in June 2016.

Articles 3(b) and 7(1) of the Convention. Worst forms of child labour and sanctions. Child prostitution. In its previous comments, the Committee noted that section 13 of Decree No. 2007-563 of 3 July 2007 respecting child labour categorically prohibits the procuring, use, offering or employment of children of either sex for prostitution and that section 261 of the Labour Code and sections 354–357 of the Penal Code, which are referred to in Decree No. 2007-563, establish effective and dissuasive sanctions. The Committee noted the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA) indicating that the number of girls under the age of majority, some as young as 12 years old, who are engaged in prostitution is increasing especially in cities, that 50 per cent of prostitutes in the capital, Antananarivo, are minors, and 47 per cent engage in prostitution because of their precarious situation. For fear of reprisals, 80 per cent of them prefer not to turn to the authorities. Furthermore, the Government has strengthened the capacity of 120 actors engaged in tourism in Nosy-Be and 35 in Tuléar in

relation to sexual exploitation for commercial purposes. However, the Committee noted the absence of information on the number of investigations, prosecutions and convictions of those engaged in commercial sexual exploitation. It also noted the increase in sex tourism involving children, the insufficient measures taken by the Government to combat this phenomenon and the low number of prosecutions and convictions, all of which fosters impunity.

The Committee notes that the Conference Committee recommended the Government to strengthen its efforts to ensure the elimination of the sexual exploitation of children for commercial purposes and sex tourism.

The Committee notes the Government's indication in its report that the Ministry of Internal Security, through the Police for Morals and the Protection of Minors (PMPM), is one of the agencies responsible for the enforcement of penal laws on the sexual exploitation of children for commercial purposes, including prostitution. The PMPM centralizes criminal charges concerning children and is responsible for conducting investigations into alleged perpetrators. The Government adds that the PMPM regularly makes unannounced raids on establishments that are open at night to monitor the identity and age of the persons present, but that it is difficult to determine whether the minors who are found are prostitutes. Moreover, the Committee notes that a code of conduct for actors in the tourism industry was signed in 2013. The code of conduct seeks to raise awareness among all actors in tourism with a view to bringing an end to sexual tourism in the country. The Committee also notes the statistics provided by the Government on the cases handled by the courts of first instance in Betroka, Ambatolampy, Arivonimamo, Nosy-be, Taolagnaro, Vatomandry, Mampikony and Ankazobe. It notes that in 2015 no cases of the exploitation of minors or of sex tourism involving minors were brought before these courts. The Committee is therefore once again bound to note with **deep concern** the absence of prosecutions and convictions of perpetrators, which is resulting in the continuation of a situation of impunity which seems to persist in the country. **The Committee therefore urges the Government to take immediate and effective measures to ensure that robust investigations and effective prosecutions are carried out on persons suspected of procuring, using, offering and employing children for prostitution, and that sufficiently effective and dissuasive penalties are imposed. It requests the Government to continue providing statistical information on the number and nature of the violations reported, investigations, prosecutions, convictions and criminal penalties imposed in this respect. Finally, the Committee requests the Government to provide information on the results achieved as a result of the dissemination of the code of conduct among the various actors in the tourism sector.**

Clause (d). Hazardous types of work. Children working in mines and quarries, and labour inspection. In its previous comments, the Committee noted that children work in the Ilakaka mines and in stone quarries under precarious and sometimes hazardous conditions, and that the worst forms of child labour are found in the informal economy and in rural areas, which the labour administration is unable to cover. The Committee also noted that the work carried out by children in mines and quarries is a contemporary form of slavery, as it involves debt bondage, forced labour and the economic exploitation of those concerned, particularly unaccompanied children working in small-scale mines and quarries. It noted that children work from five to ten hours a day, that they are engaged in transporting blocks of stone or water, and that some boys dig pits one metre in circumference and between 15 and 50 metres deep, while others go down the pits to remove the loose earth. Children between three and seven years of age, often working in family groups, break stones and carry baskets of stones or bricks on their heads, working an average of 47 hours a week when they are not enrolled in school. Moreover, the working conditions are unhealthy and hygiene is extremely poor. All of the children are also exposed to physical and sexual violence and to serious health hazards, particularly due to the contamination of the water, the instability of pits and the collapse of tunnels.

The Committee notes that the Conference Committee recommended the Government to take measures to improve the capacity of the labour inspectorate. It also notes the Government's indication that, in the context of the National Plan of Action to Combat Child Labour (PNA), the labour inspectorate envisages conducting inspections to take preventive and protective measures with a view to combating child labour in mines and quarries in the regions of Diana, Ihorombe and Haute Matsiatra. The Committee notes that the Government representative to the Conference Committee indicated that the lack of resources is a major obstacle to the adoption of rigorous measures. For example, labour inspectors do not have means of transport, even though the Government indicates in its report that one of the main obstacles to inspections by labour inspectors is the fact that mining sites, located on the outskirts of large cities, are often difficult to access. The Committee notes with **deep concern** the situation of children working in mines and quarries under particularly hazardous conditions. **The Committee once again urges the Government to take the necessary measures to ensure that no children under 18 years of age can be engaged in work which is likely to harm their health, safety or morals. It requests the Government to provide information on the progress made in this respect, particularly in the context of the PNA, and the results achieved in removing these children from this worst form of child labour. The Committee also requests the Government to improve the capacities of the labour inspectorate, in particular by providing the necessary resources, such as vehicles, to enable labour inspectors to have access to remote sites.**

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Street children. In its previous comments, the Committee noted that the Ministry of Labour and Social Legislation (MTLS) was continuing its programme of school enrolment and training for street children in the context of the Public Investment Programme for Social Action (PIP). It however noted that the number of street children has increased in recent years and that the action taken by the Government to help them is still minimal. The Government indicated that the programmes financed under the PIP have the objective of removing 40 children a year from the worst forms of child labour, or 120 children over three years. The Committee nevertheless noted that there are about 4,500 street children in the capital, Antananarivo, most of whom are boys (63 per cent) who live from begging or sorting through rubbish. Girls living on the streets are frequently victims of sexual exploitation to meet their subsistence needs, or under pressure from third parties. Others are engaged in domestic work, swelling the ranks of exploited child workers.

The Committee notes that the Conference Committee, in its conclusions, requested the Government to increase funding for the PIP with a view to removing children from the streets and for awareness-raising campaigns.

The Committee notes the Government's indication that the Ministry of the Population, Social Protection and the Promotion of Women has set up a census programme of children living and working on the streets and homeless families for the period 2015–16. The objective of this programme is to determine the number of children living and working on the streets, identify the needs of homeless families and develop a short-, medium- and long-term plan of action to deal with them. The Committee notes that studies have been carried out, data analysed and interpreted, and shelters set up. The next stages will consist of the provision of shelter, care, guidance, education, school enrolment and placement or repatriation of the persons concerned. **The Committee requests the Government to continue taking effective and time-bound measures to ensure the targeted implementation of the PIP's programmes, and requests it to intensify its efforts to ensure that street children are protected from the worst forms of child labour and are rehabilitated and integrated in society. It requests the Government to provide information on the results achieved in this respect. The Committee also requests the Government to provide information on the data collected through**

the census programme on children living and working in the streets and homeless families, as well as the results achieved in removing them from this situation and preventing them from becoming engaged in the worst forms of child labour.

Application of the Convention in practice. The Committee previously noted that 27.5 per cent of children, or 2,030,000, are engaged in work, of whom 30 per cent live in rural areas and 18 per cent in urban areas. The Committee also noted that 81 per cent of child workers between 5 and 17 years of age, or 1,653,000 children, are engaged in hazardous types of work. Agriculture and fishing account for the majority of child labour (89 per cent), and more than six out of ten working children have reported health problems resulting from their work over the past 12 months. The Committee further noted that child domestic labour is often a feature of the lives of poor rural families who send their children to urban areas in response to their precarious situation. Child domestic workers may be forced to work up to 15 hours per day, and most of them receive no wages, which are paid directly to their parents. In some cases, they sleep on the floor, and many are victims of psychological, physical or sexual violence. The Committee expressed its deep concern at the situation and number of children under 18 years of age forced to perform hazardous types of work.

The Committee notes the Government's indication that it is intensifying its efforts to combat child labour through the Manjary Soa project. The Manjary Soa Centre, established in 2001, offers selected children second chance education. Once these children have been reinserted into the public education system, the Centre covers their school fees and provides them with the necessary school supplies. The Committee also notes the 2014–16 project to combat child labour in the regions of Diana and Atsimo Andrefana. The Government indicates that the objective of this project is to reinforce action in support of the socio-economic reintegration of 100 girls under 18 years of age, who have been removed from sexual exploitation for commercial purposes in Nosy-be, Toliara and Mangily. ***The Committee requests the Government to intensify its efforts to eliminate the worst forms of child labour, and particularly hazardous types of work, and to provide information on any progress made in this regard and the results achieved.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Malawi

Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

Article 1 of the Convention. National policy and practical application of the Convention. In its previous comments, the Committee noted that in Malawi, the National Action Plan (NAP) on Child Labour for Malawi (2010–16) was being implemented, a national child labour survey was under way, and that the project on Achieving Reduction of Child Labour in Support of Education (ARISE) was ongoing.

The Committee notes from the ARISE Annual Review of 2017 that about 7,063 children were withdrawn from the farms and placed in schools; 10,028 community members and teachers were educated on child labour; 1,569 households were provided with improved livelihoods; and 1,550 children were enrolled in community-based childcare centers. It also notes the information from the Development Cooperation Progress Report of the ILO–IPEC that since 2016, Malawi has been actively implementing the project entitled “Strengthening Social Dialogue in selected Tobacco Growing Countries”. Within this project, action programmes with the National Smallholder Farmer’s Association of Malawi (NASFAM) and the Tobacco Association of Malawi (TAMA) have been developed to address child labour through social dialogue. Accordingly, NASFAM has trained over 80 association leaders and NASFAM staff members in Kasungu district on how to eliminate child labour and to ensure child labour free farms. The Committee notes, however, that according to the findings of the 2015 National Child Labour Survey (NCLS), 38 per cent (over 2.1 million) children aged 5–17 years are involved in child labour. About 55 per cent of these children are engaged in hazardous work. While noting the measures taken by the Government, the Committee expresses its ***deep concern*** at the significant number of children involved in child labour in Malawi, including in hazardous conditions. ***The Committee therefore urges the Government to take the necessary measures to ensure the progressive elimination of child labour and to provide information on the results achieved. The Committee further requests the Government to provide information on the implementation of the NAP, the ARISE project and the action programmes developed by NASFAM and TAMA as well as their impacts in eliminating child labour.***

Article 2(1). Scope of application. Self-employed children, children working in the informal economy and labour inspectorate. In its previous comments, the Committee noted that the Employment Act was applicable only where there was an employment contract or labour relationship and did not cover self-employment. It also noted the Government’s statement that it was in the process of enacting the Tenancy Bill which establishes a minimum age for employment in the tobacco sector and provides for frequent inspections of tobacco farms.

The Committee observes that the Government’s report does not contain any information in this regard. The Committee notes that according to the findings of the 2015 NCLS, about 72 per cent of children in child labour are employed in the agricultural sector, followed by 23 per cent in domestic work. ***The Committee therefore urges the Government to take the necessary measures to ensure that self-employed children or children working in the informal economy benefit from the protection of the Convention. In this regard, the Committee requests the Government to strengthen the capacity and expand the reach of the labour inspectorate services to enable it to monitor child labour in the informal economy, particularly in the agricultural sector. It requests the Government to provide information on specific measures taken in this regard, as well as on the results achieved, including the number and nature of violations relating to the employment of children and young persons detected by the labour inspectorate. The***

Committee finally requests the Government to provide information on any progress made with regard to the enactment of the Tenancy Bill and the measures taken for inspections of tobacco farms following its adoption.

Article 3(1). Minimum age for admission to hazardous work. In its previous comments, the Committee noted a discrepancy between article 23 of the Constitution, which provides for protection from dangerous work for children below the age of 16 years, and section 22(1) of the Employment Act, which, in accordance with the Convention, lays down a minimum age of 18 years for work that is likely to be harmful to their health, safety, education, morals or development, or prejudicial to their attendance in school. This issue was discussed at a tripartite meeting in 2005, where it was agreed by all social partners that there was a need to harmonize the provisions of the national laws. Subsequently, this issue was presented to the Malawi Law Commission for consideration, and the Commission recommended that the age stipulated under article 23 of the Constitution be raised to 18 years of age. The Committee also noted that, according to the NAP on Child Labour, inconsistencies among various pieces of legislation relating to children, including the Constitution, remained an issue.

The Committee once again notes with **concern** that the Government does not provide any information on this point in its report. **Observing that the discrepancy between section 22(1) of the Employment Act and article 23 of the Constitution has been under discussion since 2005, the Committee once again strongly urges the Government to take the necessary measures to ensure that the recommended amendment to article 23 of the Constitution is adopted in the very near future, in conformity with Article 3(1) of the Convention, in particular since the Employment Act does not cover self-employed workers.**

Article 9(3). Keeping of registers by employers. The Committee previously noted that section 23 of the Employment Act stipulates that every employer is required to maintain a register of persons aged below 18 years employed by, or working for, him/her. However, the Committee also noted the indication of the Malawi Trade Unions Congress (MCTU) that some estates did not have registers, particularly in commercial agriculture. The Committee noted the Government's information that the draft model register would be finalized by the end of 2010, and that this draft would be submitted to the Tripartite Labour Advisory Council for adoption. The Government also indicated that the model register of employment would be in conformity with *Article 9(3)* of the Convention and would be submitted to the Committee as soon as it was finalized. In this regard, the Committee reminded the Government that, pursuant to *Article 9(3)* of the Convention, the registers kept by employers shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom they employ, or who work for them, and who are less than 18 years of age.

The Committee notes that the Government report contains no information on this matter. **Observing that the Government has been referring to the model register of employment since 2006, the Committee strongly urges the Government to take the necessary measures to ensure its elaboration and adoption without delay. It once again requests that the Government supply a copy of the model register as soon as it is adopted.**

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Articles 3 and 7 of the Convention. Worst forms of child labour and penalties. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. In its previous comments, the Committee noted that section 179(1) of the Child Care, Protection and Justice Act provides that a person who takes part in any transaction involving child trafficking is liable to life imprisonment. The Committee observed, however, that according to section 2(d) of the same Act, a "child" means a person below the age of 16 years. The Committee reminded the Government that by virtue of *Article 3(a)* of the Convention, member States are required to prohibit the sale and trafficking of all children under 18 years of age.

The Committee notes the Government's indication that it has taken note of this observation and that this matter will be taken up with the Malawi Law Commission. The Government further indicates that it will provide information on the application in practice of the Child Care, Protection and Justice Act in subsequent reports, since the Act has only recently come into force. The Committee further notes that, according to the concluding observations of the Human Rights Committee of 18 June 2012, in consideration of the reports submitted under the International Covenant on Civil and Political Rights (CCPR/C/MWI/CO/1, paragraph 15), Malawi has drafted an anti-trafficking bill which should be considered by Parliament soon. **The Committee accordingly once again urges the Government to take immediate measures to ensure that the Child Care, Protection and Justice Act is amended to extend the prohibition of sale and trafficking to cover all children under the age of 18, as a matter of urgency, and to ensure that the anti-trafficking bill prohibits the sale and trafficking of all children under the age of 18, and is adopted as soon as possible. The Committee also, once again, requests the Government to provide information on the application in practice of this Act, as well as of the anti-trafficking bill once adopted, including in particular, statistics on the number and nature of violations reported, investigations, prosecutions, convictions and penal sanctions imposed.**

Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances. In its previous comments, the Committee noted the Government's statement in its report to the Committee on the Rights of the Child (CRC) of 17 July 2008, that, while there are no data available on the number of children involved in sexual exploitation, including prostitution and pornography, these are recognized problems in the country (CRC/C/MWI/2, paragraph 323). In this regard, it noted that section 87(1)(d) of the Child Care, Protection and Justice Act only provides that a social welfare officer who has reasonable grounds to believe that a child is being used for the purposes of prostitution or immoral practices, may remove and temporarily place the child in a place of safety. The Committee reminded the Government that *Article 3(b)* of the Convention requires member States to prohibit the use, procuring or offering of a child under 18 years for prostitution, for the production of pornography or for pornographic performances.

The Committee once again notes the Government's indication that it will endeavour to include the prohibition against the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, in the

labour laws currently under review. The Government also indicates that, meanwhile, the Censorship Board is doing its best to censor pornography. However, the Committee must once again express its *deep concern* at the continued lack of regulation to prohibit the commercial sexual exploitation of children, and once again draws the Government's attention to its obligation under *Article 1* to take immediate measures to prohibit the worst forms of child labour, *as a matter of urgency*. **The Committee accordingly, once again, urges the Government to take the necessary measures, as a matter of urgency, to ensure the adoption of national legislation prohibiting the use, procuring or offering of both boys and girls under 18 years of age, for the purpose of prostitution, for the production of pornography or for pornographic performances, and to include sufficiently effective and dissuasive sanctions in this legislation. It requests the Government to provide information on the progress made in this regard with its next report.**

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing assistance for the removal of children from these types of work and for their rehabilitation and social integration. Children engaged in hazardous work in commercial agriculture, particularly tobacco estates. In its previous comments, the Committee noted that the CRC, in its concluding observations of 27 March 2009, expressed concern that many children between 15–17 are engaged in work that is considered as hazardous, especially in the tobacco and tea estate sector, which continues to be a major source of child labour (CRC/C/MWI/CO/2, paragraph 66). The Committee noted the Government's information that labour inspections were undertaken in the tobacco sector, to help withdraw children from this sector, to rehabilitate and then to send them back to school. It further noted that it is indicated in the National Action Plan (NAP) on Child Labour that the agricultural sector, including tobacco plantations and family farms, constitutes one of its sectoral priorities, as it accounts for 53 per cent of child labour in the country.

The Committee notes that, according to the 2011 surveys conducted in Mzimba, Mulanje and Kasungu, child labour continues to be dominated by the agricultural sector. In Mzimba, 36.6 per cent of the interviewed children worked in agriculture; and in Mulanje and Kasungu, 23 per cent and 20.4 per cent of the interviewed children respectively had worked in a plantation, farm or garden. All three surveys reported that these children often worked in hazardous conditions without protective gear, and with hazardous equipment such as hoes, ploughs, saws, sickles, panga knives and sprayers. **Expressing its concern at the number of children engaged in hazardous work in agriculture, the Committee once again urges the Government to strengthen its efforts to protect children from hazardous work in this sector, in particular in tobacco plantations, through measures taken within the framework of the NAP on Child Labour. In this regard, it once again requests the Government to provide concrete information on the number of children who have been thus prevented or withdrawn from engaging in this type of hazardous work, and then rehabilitated and socially integrated.**

Clause (e). Special situation of girls. The Committee previously noted that, according to the Malawi Child Labour Survey of 2002, all the child victims of commercial sexual exploitation were girls. Half of these girls had lost both of their parents, while 65 per cent of them did not attend school past the second year. The Committee also noted that the Committee on the Elimination of Discrimination Against Women (CEDAW), in its concluding observations of 5 February 2010, expressed concern at the extent to which women and girls are involved in sexual exploitation, including prostitution, and the limited statistical data regarding these issues (CEDAW/C/MWI/CO/6, paragraph 24). It therefore requested the Government to provide information on the measures taken to protect girls under the age of 18 from commercial sexual exploitation.

The Committee once again urges the Government to strengthen its efforts to prevent girls under the age of 18 from becoming victims of commercial sexual exploitation, and to remove and rehabilitate victims of this worst form of child labour, within the framework of the NAP on Child Labour or otherwise. It once again requests the Government to provide information on the concrete measures taken in this regard, as well as information on the impact of these measures, with its next report. To the extent possible, all information provided should be disaggregated by age and sex.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Malaysia

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

Article 3(2) of the Convention. Determination of hazardous work. In its previous comments, the Committee noted the Government's indication that the Labour Department would hold consultations with the relevant authorities, such as the Department of Safety and Health, in order to determine the types of hazardous work to be prohibited to persons under the age of 18, pursuant to section 2(6) of the Children and Young Persons (Employment) Act of 1966 (CYP Act) as amended in 2010.

The Committee notes with *interest* the Government's information in its report that the Department of Occupational Safety and Health has developed a list of types of hazardous work prohibited to young persons under the age of 18 years after consultations with the National Council of Occupational Safety and Health, consisting of representatives of workers' and employers' organizations. It also notes the Government's indication that the list includes: work with machines; work exposed to physical, chemical and biological hazards; and work of a hazardous nature such as construction, timber industry, offshore and water-related activities. The Government further indicates that the list will be incorporated into the amended version of the Occupational Safety and Health Act which is currently undergoing due legal process before being gazetted. **The Committee urges the Government to take the necessary measures, without delay, to ensure that the list of types of hazardous work prohibited to young persons under the age of 18 years is adopted in the near future. It requests the Government to provide information on the progress made in this regard as well as to provide a copy, once it has been adopted.**

Article 7(1). Minimum age for admission to light work. The Committee previously noted that section 2(2)(a) of the CYP Act allows children to be employed in light work which is suitable to their capacity in any undertaking carried on by their family, but observed that no minimum age for admission to light work had been specified. It noted the

Government's indication that the CYP Act was undergoing revision in order to incorporate a minimum age of 13 years for light work activities.

The Committee notes the Government's information that the revised CYP Act which contains provisions establishing a minimum age of 13 years for light work activities is undergoing the due legal process and is expected to be tabled by October 2018. ***The Committee expresses the firm hope that the revised CYP Act, which establishes a minimum age of 13 years for light work activities, will be adopted in the near future. It requests the Government to provide information on the progress made in this regard.***

Labour inspection and application of the Convention in practice. The Committee previously noted the statement of the International Trade Union Confederation (ITUC) that child labour in Malaysia can be found primarily in rural areas in agriculture, where children often work along with their parents without receiving a salary. In urban areas, children work in restaurants, shops and small manufacturing units usually owned by family members.

The Committee notes the Government's information that in Malaysia, it is common that children accompany their working parents after school hours, both in rural and urban areas, primarily because of the need to provide care for children as well as the need for parents to continue working to earn more income. Hence, the act of having children in the parents' workplace does not necessarily mean that the children are subjected to child labour.

The Committee further notes the Government's indication that the labour inspectors are undergoing regular training on monitoring of child labour which includes training and better understanding of the provisions related to child labour under the CYP Act and other related legislation in order to enable them to identify child labour. It also notes from the Government's report that the Labour Departments of Sabah and Sarawak conducted 7,905 and 6,154 statutory inspections on child labour, respectively, and identified two cases of non-compliance with regard to section 6 of the CYP Act (hours of work of young persons). Both the cases were brought to prosecution and a fine of 2,000 Malaysian ringgit (MYR) each was imposed on the employers. ***The Committee requests the Government to continue its efforts to strengthen the capacity of the labour inspectorate, and to continue providing information on the number and nature of violations relating to the employment of children detected by the labour inspectorate. It also requests the Government to continue to take the necessary measures to ensure that persons who violate the CYP Act and other related legislation on the employment of children, are prosecuted and that sufficiently effective and dissuasive penalties are imposed. Lastly, it requests the Government to provide information on the situation of working children, including data on the number of children and young persons below the minimum age of 15 who are engaged in child labour, and information on the nature, scope and trends of their work. To the extent possible, this information should be disaggregated by age and gender.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances. In its previous comments, the Committee noted that section 31(1)(b) read in conjunction with section 17(2)(c)(i) of the Child Act of 2001 which provided for penalties for the offences related to sexual abuse of a child, including using a child for the purposes of any pornographic, obscene or indecent material, applied only to persons with the care of a child, such as a parent, guardian or a member of the extended family. It also observed that section 377E of the Penal Code which prohibits any person from inciting a child to any act of gross indecency extended only to children under the age of 14 years. The Committee noted with regret that despite raising this issue since 2003, the Government had not taken any measures in this regard.

The Committee notes with ***satisfaction*** that the Government enacted the Sexual Offences against Children Act No. 792 of 2017 which specifically prohibits the use, procuring or offering of a child under the age of 18 years for pornography. According to section 5 of this Act, any person who makes, produces, directs the making or production of, or participates, engages or is involved in the making or production of any child pornography shall be punished with imprisonment for a term not exceeding 30 years. The Committee also notes that sections 6 to 10 of the Sexual Offences against Children Act further provides for penalties for offences related to using a child in the making or production of pornography as well as exchanging, publishing, selling or accessing child pornography. ***The Committee requests the Government to provide information on the application in practice of sections 5 to 10 of the Sexual Offences against Children Act of 2017, including the number of and nature of violations, investigations, prosecutions, convictions and sanctions applied.***

Article 4(1). Determination of types of hazardous work. With regard to the adoption of the list of hazardous types of work prohibited to children under the age of 18 years, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138).

Articles 5 and 7(2)(a) and (d). Monitoring mechanisms and effective and time-bound measures. Identifying and reaching out to children at special risk. Migrant children. In its previous comments, the Committee had noted the indication of the Worker members at the Conference Committee on the Application of Standards at the 98th Session of the International Labour Conference of June 2009 that, according to the Indonesian National Commission for Child Protection (INCCP), cases of forced labour of migrant workers and their children on plantations in Sabah involved an estimated 72,000 children. It also noted that tens of thousands of migrant workers' children also worked in the plantations without regulated employment hours, which meant that they worked all day long. Other sectors where migrant workers' children

were often found working were in family food businesses, night markets, small-scale industries, fishing, agriculture and catering. According to the INCCP, children of migrant workers born under these conditions were not provided with birth certificates or any other type of identity document, effectively denying them their right to education. The Committee further noted the information from the UNESCO Global Monitoring Report of 2011 that there were an estimated 1 million undocumented migrants living in Malaysia, many of them children. It noted the various measures taken by the Government, including the provision of education to children of Indonesian migrants in palm oil plantations by the Human Child Aid Society (HCAS). However, the Committee expressed its concern that despite the high number of migrant children involved in hazardous work in the plantation sector, no such cases were identified during inspections.

The Committee notes the Government's information that the Malaysian Sustainable Palm Oil (MSPO) certification compliance towards branding Malaysian palm oil as sustainably produced and safe, will be made mandatory by the end of 2019. It also notes the Government's information that as of February 2018, 758,923 hectares of palm oil plantations have obtained the MSPO certification which emphasizes the zero child labour requirement. Moreover, the Government indicates that the proposed comprehensive study on the labour situation in Malaysian palm oil plantations, envisaged to be conducted in collaboration with the ILO, will enable it to plan further action to eliminate child labour in this sector. The Committee finally notes the Government's information that in 2017, an estimated 11,000 children of Indonesian migrants were provided education by the HCAS. The Committee notes, however, that according to a UNICEF report entitled *Palm oil and children in Indonesia, 2016*, children of Indonesian workers on Malaysian plantations face particular challenges accessing education, as non-nationals are prevented from accessing public education. This report further states that while alternative learning centres funded by plantations and run by NGOs have been established, the quality of the education offered is variable and the opportunities to study beyond the primary level remain limited. ***The Committee, therefore, urges the Government to take effective and time-bound measures to protect children of migrant workers in palm oil plantations, particularly by guaranteeing their access to quality education, in order to prevent them from engaging in the worst forms of child labour. It also urges the Government to take the necessary measures to strengthen the labour inspection system to effectively monitor the implementation of labour laws so as to receive, investigate and address complaints of alleged violations of child labour. The Committee finally requests the Government to provide information on the findings of the proposed study on the labour situation in the palm oil plantations, in particular regarding children in hazardous work and the action plans developed thereafter for the elimination of hazardous child labour in this sector.***

Articles 6, 7(1) and 7(2). Programmes of action, penalties and effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and removing them from these worst forms and ensuring their rehabilitation and social integration. Trafficking. In its previous comments, the Committee noted the Government's information that the National Action Plan to Combat Trafficking in Persons 2016–20 (NAP 2016–20) was updated. It noted from the Report of the Special Rapporteur of the United Nations Human Rights Council on trafficking in persons, especially women and children of 15 June 2015, that young girls were trafficked into domestic servitude by employment agencies in their home country or employers in Malaysia with the alleged complicity of State officials. Moreover, a high number of girls and boys were trafficked into the sex industry with an increase in the prevalence of trafficking of boys for work in the sex industry. This report further indicated that children were trafficked for the purpose of forced begging and drug trafficking.

The Committee notes from the Government's report that within the framework of the NAP 2016–20, several awareness-raising programmes on trafficking of people were implemented, including 9,006 announcements via radio and 1,605 trafficking trailers broadcast via television. Moreover, an anti-trafficking hotline, which is accessible 24 hours per day, was launched in 2017. The Government report also indicates that from January to October 2017, 92 child victims of trafficking (44 boys and 48 girls) were rescued. The Committee further notes from its report submitted under the Forced Labour Convention, 1930 (No. 29), that a multi-agency Task Force on Anti-Trafficking in Persons and Anti-Smuggling of Migrants (ATIPSOM Task Force) was established in 2016 in order to strengthen cooperation between enforcement agencies, particularly with regard to investigation and intelligence sharing. The Committee notes, however, that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 14 March 2018, expressed its concern that Malaysia remained a country of destination for trafficking of women and girls for purposes of sexual exploitation, begging and forced labour. The CEDAW further expressed concern at the complicity among law enforcement officials in allowing undocumented border crossings and impunity of those responsible for crimes relating to trafficking of persons along the border between Malaysia and Thailand (CEDAW/C/MYS/CO/3-5, paragraph 25). ***The Committee urges the Government to take the necessary measures to ensure that all perpetrators of trafficking in children, including complicit and corrupt officials, are subject to thorough investigations and prosecutions and that sufficiently effective and dissuasive penalties are imposed in practice. In this regard, the Committee requests the Government to provide information on the measures taken by the ATIPSOM Task Force to prevent trafficking of children under the age of 18 years as well as the number of cases of trafficking of children, disaggregated by gender, age and nationality that have been identified and dealt with by them. Moreover, it requests the Government to strengthen its measures, within the framework of the National Action Plan to Combat Trafficking in Persons, 2016–20, to prevent trafficking of children under the age of 18 years, and provide for their removal from such situations and subsequent rehabilitation and social integration. It asks the Government to provide information on the concrete***

measures taken in this regard and on the results achieved in terms of the number of children reached through such measures.

The Committee is raising other matters in a request addressed directly to the Government.

Mali

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted that, according to the national survey on child labour conducted in 2005, nearly 2.4 million children between the ages of 5 and 14 years, or 65.4 per cent of children in that age group, were engaged in work. In this respect, the Committee noted the adoption and validation of a programme of action for the formulation and conceptualization of the National Plan of Action for the Elimination of Child Labour in Mali (PANETEM) 2011–20, of which the first phase (2011–15) focused on the elimination of the worst forms of child labour (60 per cent of targeted children) and the second phase (2016–20) on the abolition of all forms of unauthorized child labour (40 per cent of targeted children). The Committee also noted the observations by the International Trade Union Confederation (ITUC) that 40 per cent of children between the ages of 5 and 14 years are engaged in hazardous types of work.

The Committee notes the Government's indications, in its report, that under PANETEM, training and awareness-raising activities on laws and regulations were conducted in 2016 and 2017 for 120 stakeholders involved in combating child labour. It notes that, according to the documents provided by the Government, a project to eliminate child labour and forced labour in garment value chains has been developed, with the financial support of the European Union. In addition, the National Task Force to Combat Child Labour (CNLTE) has drawn up a roadmap to eliminate child labour in agriculture and created a national committee to oversee the roadmap. The Committee also notes that the Government has participated in the development of a project called "Cotton with Decent Work", with the ILO and Brazil, which seeks to eliminate child labour in cotton production, and in the development of a project financed by the multinational INDITEX, the objective of which is to foster respect for the fundamental principles and rights at work in cotton-producing communities. The Committee observes that, according to the final report of the Multiple Indicator Cluster Survey (MICS) conducted in 2015 by the National Institute of Statistics (INSTAT) in partnership with UNICEF and published in November 2016, 56.5 per cent of children aged from 5 to 14 years are engaged in child labour and 42.5 per cent of them work in dangerous conditions. Moreover, the report highlights that the regions of Sikasso, Koulikoro and Kayes, where agriculture predominates, are the most affected by child labour, particularly hazardous types of work, which affect more than one out of every two children aged from 5 to 7 years (page 248). While noting the measures taken by the Government, the Committee once again expresses its **deep concern** at the substantial number of children below the minimum age who are engaged in work, often under very dangerous conditions. ***The Committee once again urges the Government to intensify its efforts to ensure the progressive elimination of child labour. It requests the Government to provide information on the results achieved under PANETEM and the programmes to combat child labour in agriculture and cotton production.***

Article 2(1). 1. Scope of application. In its previous comments, the Committee noted the observation by the ITUC that the legislation does not adequately protect children against child labour, because it does not provide for specific protection for children working in the informal economy, particularly in agriculture or domestic work. The ITUC added that there are a total of 54 labour inspectors in Mali, none of whom have received specialized training in child labour. The Government indicated that labour inspectors are responsible for enforcing labour legislation in the formal and informal economies, but that the capacities of labour inspectors have to be strengthened in terms of intervention techniques in the informal economy and on matters relating to child labour.

The Committee notes that, according to the information provided by the Government, ten labour inspectors were recruited in December 2017. Moreover, two workshops to strengthen labour inspectors' capacities regarding child labour were held in 2017 and 2018. The Government nevertheless indicates that despite training on child labour, no steps have been taken to enable labour inspectors to target children working on their own account or in the informal economy. ***The Committee strongly encourages the Government to continue its efforts to adapt and strengthen the labour inspection services to ensure that children who are not bound by an employment relationship, such as those working on their own account or in the informal economy, benefit from the protection afforded by the Convention. It requests the Government to provide information on the progress made in this regard.***

2. Minimum age for admission to employment or work. In its previous comments, the Committee noted that, under section 20(b) of the Child Protection Code, all children have the right to be employed as from 15 years of age, in accordance with the minimum age specified when ratifying the Convention. It noted, however, that the Labour Code provides that the minimum age for the admission of children to employment in undertakings, even as apprentices, is 14 years, and that Decree No. 96-178/P-RM of 13 June 1996, implementing the Labour Code contains a list of the loads that children between the ages of 14 and 17 years may not carry, drag or push, depending on the type of transport equipment, the weight of the load and the sex of the child. The Committee noted that the Government had adopted a Bill in 2013 to amend Act No. 92–020 of 23 September 1992 issuing the Labour Code of Mali, which establishes the age for

admission to employment at 15 years, and that the implementing texts of the Code would also be revised accordingly. The Committee urged the Government to take the necessary measures to finalize the revision as soon as possible.

The Committee notes with *interest* the adoption of Act No. 2017-021 of 12 June 2017 amending Act No. 92-020 of 23 September 1992, issuing the Labour Code of the Republic of Mali, which establishes in section L.187 the minimum age for admission to employment of children in undertakings, even as apprentices, as 15 years of age. It notes the Government's indication that the revision of Decree No. 96-178/P-RM implementing certain provisions of the Labour Code is under way. ***The Committee expresses the firm hope that the relevant provisions of Decree No. 96-178/P-RM of 13 June 1996 will be brought into line with the Convention so as to prohibit the employment of children under the age of 15 years, and requests the Government to provide it with a copy of the revised Decree when it has been adopted.***

Article 3(3). Admission to hazardous types of work from the age of 16 years. The Committee previously noted that certain provisions of Decree No. 96-178/P-RM of 13 June 1996 allow children to be employed in hazardous types of work from the age of 16 years. It noted that, despite the Government's indication that section D.189-33 of Decree No. 96-178/P-RM establishes the requirement to ascertain that young persons between the age of 16 and 18 years engaged in hazardous types of work have received adequate specific instruction or vocational training in the relevant branch of activity, the section does not refer to such a requirement. Moreover, the Government indicated that the draft implementing texts of the Labour Code would be revised following the adoption of the new Labour Code by the National Assembly. This revision was to include the conditions set forth in *Article 3(3)* of the Convention.

The Committee notes the Government's indication that Act No. 92-020 of 23 September 1992 issuing the Labour Code has been amended by Act No. 2017-021 of 12 June 2017. It notes that the draft amendment to Decree No. 96-178/P-RM of 13 June 1996, as well as the Order implementing the new Labour Code, have been drafted by the labour services and submitted to the social partners for comments. ***The Committee expresses the firm hope that the draft implementing texts of the Labour Code will be adopted as soon as possible and that their provisions concerning admission to hazardous types of work from the age of 16 years will be brought into conformity with the conditions set forth in Article 3(3) of the Convention. It requests the Government to provide a copy of the texts when they have been adopted.***

Article 7. Light work. In its previous comments, the Committee noted the Government's indication that it planned to amend section 189-35 of Decree No. 96-178/P-RM of 13 June 1996 so as to raise the minimum age for domestic work and light work of a seasonal nature from 12 to 13 years. It also noted that a draft order was being prepared to determine the types of light work and the conditions for their performance. The Government indicated that this would be done in the context of the global review of the implementing texts of the Labour Code.

The Committee notes the Government's indication that the implementing texts of the Labour Code amended by Act No. 2017-021, including Decree No. 96-178/P-RM of 13 June 1996, are being adopted. ***The Committee expresses the firm hope that the draft implementing texts of the Labour Code will be brought into line with the Convention in order to regulate the employment of children in light work from the age of 13 years. It requests the Government to provide a copy of the texts when they have been adopted.***

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Articles 3(a) and 7(1) of the Convention. All forms of slavery or practices similar to slavery. 1. Compulsory recruitment of children in armed conflict. The Committee previously noted the observation by the International Trade Union Confederation (ITUC) that the intensification of armed conflict in Mali was accompanied by an increase in the recruitment of children as soldiers by the various rival parties operating in the north of the country. The Committee previously expressed its deep concern at the fact that this practice leads to serious violations of children's rights, including sexual violence, and the jeopardization of their health and safety. It also noted the signing of a peace agreement with the armed groups on 15 May and 20 June 2015, resulting in a ceasefire on the ground, and that Annex 2 of the agreement provides for a process of disarmament, demobilization and reintegration. The Government added that the internal rules of the Peace Agreement Follow-up Committee had been validated by the parties and that the Follow-up Committee for the Implementation of the Agreement and the National Commission for Disarmament, Demobilization and Reintegration would adopt an inclusive and coherent National Disarmament, Demobilization and Reintegration Programme accepted by all parties.

The Committee notes the absence of information provided by the Government in this regard. It notes that, in its annual report for 2017, the National Task Force to Combat Child Labour (CNLTE) recommends that the Government conduct an assessment of the first phase of the National Plan of Action for the Elimination of Child Labour in Mali (PANETEM) (2011-15) and then modify PANETEM by including, inter alia, children formerly associated with armed forces and armed groups (EAFGA). The Committee observes that, in his report dated 2 February 2018, the Independent Expert on the situation of human rights in Mali indicated that the armed groups that are signatories to the Agreement on Peace and Reconciliation in Mali continue to recruit and use children (A/HRC/37/78, paragraph 44). The Secretary-General of the United Nations indicates, in his report on children and armed conflict in Mali to the Security Council of 21 February 2018 (S/2018/136), that, between 1 January 2014 and 30 June 2017, 284 cases of the recruitment and use by armed groups of children from 13 to 17 years of age were verified, including 16 girls. In 2015 and 2016, 84 cases of recruitment and 79 cases of use of children were verified. In the first half of 2017, 18 boys were verified as recruited by armed groups. According to the report, all parties to the conflict, including armed groups and the Malian armed forces,

had committed grave violations against children, including rape and other forms of sexual violence. The Secretary-General points out that the collection of data on grave violations committed against children is hindered by the current situation in the country.

The Committee *deplores* the recruitment and use of children in the armed conflict affecting the north of the country, especially since the persistence of this worst form of child labour entails other grave violations of the rights of the child, such as sexual violence. *While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in certain regions of the country, the Committee urges the Government to take the necessary measures, as a matter of urgency, to bring an end, in practice, to the forced recruitment of children under 18 years of age by the parties to the conflict. It also requests the Government to implement the process of disarmament, demobilization and reintegration of all children associated with armed forces or armed groups in order to ensure their rehabilitation and social integration. Lastly, the Committee requests the Government to take the necessary measures to ensure that persons forcefully recruiting children under 18 years of age for their use in armed conflict are prosecuted and penalized, and to provide information in this regard.*

2. *Forced or compulsory labour. Begging.* In its previous comments, the Committee noted the existence of *talibé* boys originating from neighbouring countries, brought to towns by Koranic teachers (*marabouts*). These children are kept in conditions of servitude and are obliged to beg on a daily basis. The Committee noted that, although the Penal Code and Act No. 2012-23 on combating trafficking in persons and similar practices establish fines and prison sentences, respectively, for any person inciting a minor to beg and for the organized exploitation of begging by another, the use of *talibé* children for purely economic purposes remains a concern in practice. The Government indicated that it had taken measures to strengthen the capacity of police officers, but did not provide any information on the prosecution or conviction of persons, including *marabouts*, who force children into begging. The Government added that the enforcement of legal provisions on begging requires a dose of political courage, as the practice of begging is very frequently linked to religion.

The Committee notes the information provided by the Government, in its report, on the number of child victims of forced begging and on the number of prosecuted *marabouts*. For example, in 2016 and 2017, it notes that, respectively, 35 and 42 victims were identified, and three and five individuals were interrogated. It nevertheless notes with *concern* the low number of prosecutions of persons who force children to beg and the absence of sanctions for such persons. Moreover, the Committee notes that, according to the Compilation on Mali of November 2017 by the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations High Commissioner for Human Rights is concerned about the recruitment of *talibé* children, exploited as beggars by *marabouts*, in return for the Islamic education that they provide to these children (A/HRC/WG.6/29/MLI/2, paragraph 86). The Committee recalls that, under *Article 7(1)* of the Convention, the Government must take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the application of penal sanctions. *The Committee therefore once again urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions are carried out and that sufficiently effective and dissuasive sanctions are imposed upon marabouts who use children under 18 years of age for purely economic purposes. It requests the Government to provide information on the results achieved in this regard, including the number of convictions and the penalties imposed, particularly with regard to the application of the provisions of Act No. 2012-023.*

Articles 3(d) and 7(2). Hazardous work and effective and time-bound measures. Children working in traditional gold panning. The Committee previously noted the observation of the ITUC of September 2014 that between 20,000 and 40,000 children are engaged in work in gold mines, some of whom are not even 5 years old. Children extract minerals from underground galleries and undertake the amalgamation of mercury and gold. During these operations, the children are exposed to unhealthy and dangerous conditions, which have a serious impact on their health and safety. The Committee noted with concern that, although a programme of action for the prevention, removal, and social and vocational reintegration of children at risk of, or victims of, work in small traditional mines in the region of Sikasso (project ILO-IPEC/AECID) resulted in the prevention of 2,655 children, the removal of 1,946 children and the reintegration of 709 children, there are still a considerable number of children, some of whom are not even 5 years of age, who work in dangerous conditions in traditional gold panning.

The Committee notes the absence of the information provided by the Government in this regard. It notes that, according to its activity report for 2017, the CNLTE recommends that the Government modify PANETEM to step up efforts in the traditional gold-panning sector, which employs a steadily growing number of children (page 17). *The Committee urges the Government to intensify its efforts and to take effective measures, as a matter of urgency, under PANETEM or by other means, in order to remove children from the worst forms of child labour in traditional gold panning, with a view to ensuring their rehabilitation and social integration. The Committee requests the Government to provide information on the progress achieved and the results obtained.*

Article 7(2)(a). Access to free basic education. The Committee previously noted that the age of completion of compulsory schooling in Mali is 15 years. It took due note of the measures adopted by the Government in relation to education, but observed that the school enrolment rates for primary education remained fairly modest and that a significant number of children drop out of school after the primary level. The Committee noted the observation by the ITUC that only 35.9 per cent of boys and 25.2 per cent of girls enter secondary education. The Government indicated that the armed

conflict had severely undermined the education system in the northern regions of the country, but that the return of the administration and the renewal of cooperation with education partners had enabled many schools to reopen in the regions of Mopti, Timbuktu and Gao. Lastly, the Government indicated that an Interim Programme for the period 2015–16 had been adopted, pending the forthcoming adoption of a Ten-Year Education Development Programme (PRODEC II) following the evaluation of PRODEC I. In 2012–13, the gross enrolment rate was 69.7 per cent for primary education and 50 per cent for secondary education, and the drop-out rate was 8.3 per cent in primary education. The Committee observed a very broad disparity in these rates between regions.

The Committee notes the Government's indication that the Interim Programme is under evaluation and that it has been extended until 2018. PRODEC II is still being developed. The Committee takes due note of the final evaluation report of PRODEC of November 2015 communicated by the Government under the Minimum Age Convention, 1973 (No. 138), which shows that, following an initial period of rapid growth in school enrolment and the completion rate for basic education, such growth slowed down and most indicators began to drop as of 2010. Although there is still strong resistance and discrimination surrounding schooling for girls, the reduction of gender disparities is one of the significant achievements of PRODEC I in relation to girls' and boys' access to and completion of basic education. The Committee notes that the evaluation of PRODEC I has enabled the formulation of recommendations for PRODEC II, which include speeding up efforts to promote enrolment in basic education, continuing to reduce disparities based on area of residence and on gender, qualifications for teachers in basic education and the revitalization of non-formal education. The Committee also takes due note of the statistics provided by the Government under Convention No. 138 on basic education for the school years 2013–14, 2015–16 and 2016–17, and welcomes the efforts made by the Government to provide such statistics. It notes that the gross enrolment rate was 72.1 per cent for primary education and 49.2 per cent for the first stage of secondary education. The Committee therefore points out that the gross school enrolment rate has not improved since 2013. Moreover, the Committee observes that there are significant regional disparities in terms of access to education. The completion rates for primary education and the first stage of secondary education have increased, but are still low, with a completion rate of 48.1 per cent for primary education and 35.4 per cent for the first stage of secondary education.

The Committee notes that, in its concluding observations of July 2016, the Committee on the Elimination of Discrimination against Women (CEDAW) expresses concern at the extremely low completion rate for girls at the secondary level; the poor quality of education; and rural–urban disparities. CEDAW also expresses concern at the existence of a parallel education system with Koranic schools that remain outside the purview of the Ministry of Education (CEDAW/C/MLI/CO/6-7, paragraph 29). The Committee also observes that the report of the UN Secretary-General dated 25 September 2018 shows that 735 schools remained closed at the end of the 2017–18 school year, affecting 332,400 children (S/2018/866, paragraph 63). The United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and the OHCHR have also noted the occupation of school premises by armed groups in some areas of northern Mali (A/HRC/WG.6/29/MLI/2, paragraph 60). The Committee expresses its *concern* at the large number of children deprived of an education due to the armed conflict affecting northern Mali. *While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to step up its efforts to improve the functioning of the education system and to provide access to free basic education, by increasing school enrolment rates, both at the primary and secondary levels, and by reducing the drop-out rates in all regions of the country. In this regard, it requests the Government to provide information on the progress achieved and the results obtained through the implementation of the Interim Programme 2015–16 and PRODEC II.*

The Committee is raising other matters in a request addressed directly to the Government.

Mauritania

Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes the observations of the General Confederation of Workers of Mauritania (CGTM) received on 31 August 2018 and requests the Government to provide its comments in this respect.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the indications of the International Trade Union Confederation (ITUC), according to which the Ministry of Labour authorized, without exception, work by 13-year-old children in both the agricultural and non-agricultural sectors. The Committee noted that, according to the study undertaken by the Government in collaboration with UNICEF, some 90,000 children under 14 years of age were working in the country.

The Committee notes the observations from the CLTM, to the effect that young children are working in hazardous conditions in agriculture, small-scale fishing, construction and garbage removal, including the children of slaves and former slaves. The CLTM also indicates that these children work throughout the day without any rest period, which causes them multiple health problems. The Committee duly notes the Government's indication that a National Plan of Action on the Elimination of Child Labour 2015–20 (PANETE–RIM) was adopted on 14 May 2015. It notes that the PANETE–RIM forms part of the implementation of the roadmap for combating the vestiges of slavery, Recommendation No. 17 of which is concerned with taking account of action against child labour in agreements signed between the State and international enterprises. The Government indicates that the National Plan of Action comprises five strategic components, namely: strengthening legal and institutional frameworks; building technical and operational capacity; raising awareness and increasing knowledge of child labour;

implementing direct action to combat child labour in spheres and sectors of use and exploitation; and collaboration, coordination and partnership. The Committee further notes the observations of the CGTM to the effect that the social partners have been associated with the formulation and design of the PANETE-RIM. The Committee also notes the Government's indication that the setting up of 30 communal child protection systems in 10 *wilayas* (regions) has enabled care to be provided for 10,782 victims of child labour. However, it observes that, according to the "MICS4 – Multiple indicator cluster survey" finalized by the National Statistics Office in 2014 and quoted in the PANETE-RIM, 22 per cent of children between 5 and 14 years of age are involved in child labour. While noting the measures taken by the Government, the Committee is bound to express its *concern* at the situation of children working below the minimum age, often under hazardous conditions. ***The Committee therefore urges the Government to take the necessary measures to ensure the effective abolition of child labour and to provide information on the activities and results achieved through the implementation of the National Plan of Action on the Elimination of Child Labour 2015–20 (PANETE-RIM).***

Article 2(3). Compulsory schooling. The Committee previously noted the information provided by the Government to the effect that one of the methods to ensure the abolition of child labour was the adoption of Act No. 2001-054 of 19 July 2001, making basic education compulsory for children of both sexes from 6 to 14 years of age, with a minimum six-year period of schooling. However, the Committee noted a low enrolment rate in primary education and a very low enrolment rate in secondary education.

The Committee notes the Government's information to the effect that the Centre for the Protection and Social Integration of Children (CPISE) has enabled more than 1,000 children who had dropped out of school to resume their education. The Committee also notes the establishment of a unit within the Ministry of Education which has responsibility for dealing with out-of-school children, according to the UNICEF annual report for 2013 (page 17). However, the Committee notes the observations from the CLTM that the State is making no effort to create conditions conducive to ensuring schooling for children and an acceptable standard of living, pointing out that most *adwabas* (former slave villages) do not have a school or basic services. The Committee also notes that, according to the UNICEF report, non-attendance at school remains a major challenge in Mauritania. It also notes that, according to the 2015 joint report produced by the Government and ILO-IPEC on child labour in Mauritania, school wastage is one of the main reasons for the large number of children on the labour market in Nouakchott (page 20). While taking due note of the measures provided for in the PANETE-RIM, including support measures for the ZEP programme (concerning priority education areas) to reduce school wastage and increase the attendance rate (objective 4.2), the Committee notes with *concern* the persistence of low school attendance rates, especially at secondary level, according to UNESCO statistics for 2013, which indicate that the net primary school enrolment rate is 73.1 per cent, the net secondary school enrolment rate is 21.6 per cent, and the primary school completion rate is 64.1 per cent. ***Recalling that compulsory schooling is one of the most effective means of combating child labour, the Committee once again requests the Government to take the necessary measures, including as part of the implementation of the PANETE-RIM, to provide compulsory education until the minimum age for admission to employment, increasing the primary and secondary education enrolment rates and reducing the drop-out rate. The Committee requests the Government to supply information on any new developments in this respect.***

Article 7(3). Determination of light work. In its previous comments, the Committee noted that, under section 154 of the Labour Code regulating the employment of children between 12 and 14 years of age in light work, no child over 12 but under 14 years of age may be employed without the express permission of the Minister of Labour, and only under certain conditions restricting the hours of this employment. The Committee reminded the Government that *Article 7(3)* provided that, in addition to the hours and conditions of work, the competent authority should determine the activities in which light employment might be permitted for children between 12 and 14 years of age. The Committee noted the Government's indication that a copy of the provisions determining the activities in which light employment or work may be permitted for children would be sent to the Office once they had been adopted.

The Committee notes the absence of information on this matter in the Government's report. ***Observing that a significant number of children are working below the minimum age for admission to employment in Mauritania, the Committee once again urges the Government to take the necessary measures, particularly in the context of the implementation of objective 1.2 of the PANETE-RIM, to bring the national legislation into line with the Convention and to regulate the employment of children of 12–14 years in light work.***

The Committee is raising other points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the observations of the General Confederation of Workers of Mauritania (CGTM) received on 31 August 2018 and requests the Government to provide its comments in this respect.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 3 of the Convention. Worst forms of child labour. Clause (a). Slavery or practices similar to slavery. 1. Sale and trafficking of children. In its previous comments, the Committee noted the adoption of Act No. 025/2003 of 17 July 2003 concerning the suppression of trafficking in persons. The Committee also observed that Mauritania appeared to be a country of origin for the trafficking of children for labour exploitation.

The Committee notes the lack of information on this matter in the Government's report. The Committee observes that the National Plan of Action for the Elimination of Child Labour 2015–20 (PANETE-RIM) identifies the presence of child victims of trafficking in Mauritania, including children who are victims of the vestiges of slavery, *talibé* children and foreign children (paragraph 2.4). ***The Committee requests the Government to step up its efforts to ensure that, in practice, children under 18 years of age are protected against the sale and trafficking of children for sexual or labour exploitation. Furthermore, the Committee again requests the Government to provide information on the application in practice of Act No. 025/2003 of 17 July 2003 concerning the suppression of trafficking in persons, including statistics on the number and nature of reported violations, investigations, prosecutions, convictions and criminal penalties imposed.***

2. Forced or compulsory labour. Begging. In its previous comments, the Committee noted that section 42(1) of Ordinance No. 2005-015 concerning the protection of children under criminal law provides that any person who causes a child to beg or directly employs a child to beg shall be liable to imprisonment of one to six months and a fine of 100,000 Mauritanian

ouguiyas (MRO). The Committee noted the allegations of the General Confederation of Workers of Mauritania (CGTM) that teachers in religious schools force children to go onto the streets to beg, exposing them to crime and the risk of physical assault. Lastly, the Committee noted the statement of the United Nations Special Rapporteur on contemporary forms of slavery to the effect that a specialist police unit trained to work with children and the Ministry of the Interior monitor *madrasas* (religious schools) to ensure that children are not encouraged to go begging on behalf of their religious teachers.

The Committee notes the Government's indications that a survey conducted in Nouakchott in 2013 reveals that begging affects 3.57 per cent of children between 3 and 5 years of age, 5.95 per cent of children of 6 or 7 years of age, 14.29 per cent of children between 9 and 11 years of age, 27.38 per cent of children between 12 and 14 years of age and 9.25 per cent of children aged 15. The survey also shows that 90 per cent of child beggars are male and 61 per cent of children state that they are instructed to beg by their *marabout* (religious teacher). According to the PANETE-RIM, *talibé* children are exposed to dangers, spending most of their time on the streets and often unable to return home empty-handed since they will otherwise receive a beating from their master (paragraph 2.4). The Committee also observes that the particular situation of *talibé* children will be taken into account in the context of preventive actions and measures under objective 4.2 of the PANETE-RIM. However, the Committee notes that there is no information on the investigation and prosecution of *marabouts*. The Committee reiterates that, under the terms of *Article 7(1)* of the Convention, the Government must take all necessary steps to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of effective and sufficiently dissuasive sanctions. ***The Committee therefore once again urges the Government to take the necessary measures to ensure that marabouts who use children under 18 years of age for purely economic purposes are thoroughly investigated and prosecuted, and that adequate penalties constituting an effective deterrent are imposed on them. The Committee requests the Government to provide information on the number of talibé children who have been identified by the specialist police unit and the Ministry of the Interior. Lastly, it requests the Government to send a copy of the survey of talibé children conducted in 2013.***

Article 7(2). Effective and time-bound measures. Clause (b). Assistance for the removal of children from the worst forms of child labour. Forced or compulsory labour. Begging. The Committee previously noted the lack of information on the measures adopted by Mauritania to identify and protect children living or working on the streets.

The Committee notes the information from the Government to the effect that, as a result of the national child protection system established at the Ministry of Social Affairs, Children and the Family, a total of 5,084 out-of-school working children and child beggars have been placed in schools in the *wilayas* (regions) of Nouakchott, Dakhlet Nouadhibou and Assaba. However, the Committee notes the persistent presence of children engaging in begging, according to the analysis of the child labour situation in Mauritania (*World Report on Child Labour 2015*, table 13, page 39), produced jointly by the Government and ILO-IPEC. ***The Committee requests the Government to continue providing information on the number of child victims of begging who have been removed from the streets and rehabilitated and integrated into society, particularly by the Centre for the Protection and Social Integration of Children (CPISE) or by the Ministry of the Interior. The Committee also requests the Government to indicate any other effective time-bound measures taken to identify talibé children who are forced to beg, and to remove them from such situations, ensuring their rehabilitation and social integration.***

Clause (e). Special situation of girls. Domestic work. In its previous comments, the Committee noted the Government's statement that most girls engaged in domestic work received little or no schooling. The Committee noted the CGTM's allegations that domestic work involves a daily workload of heavy chores for children, who are subjected to abuse from a very young age. Furthermore, the International Trade Union Confederation (ITUC) indicated that many girls are forced into unpaid domestic service and are particularly vulnerable to exploitation.

The Committee notes that the Government provides no information on this matter in its report. However, the Committee notes the information contained in the PANETE-RIM, according to which child domestic workers account for 17.28 per cent of children covered by the survey and work more than 16 hours per day. The Plan of Action also mentions that most of these workers are girls who do not attend school and who work hidden from view, experiencing various problems, including abuse and rape and also unpaid wages (paragraph 2.4). The Committee also observes that, according to the *2015 survey relating to the legislative and institutional analysis of child labour in Mauritania*, produced jointly by the Government and the ILO, domestic work is traditionally done by the daughters of former slaves and resembles the work previously done by their own enslaved mothers. The survey adds that girl domestic workers are systematically kept in poverty and most of them face abuse, exploitation and violence (page 8). The Committee is bound to express its **concern** at the situation of girl domestic workers. It reminds the Government that girls employed in domestic work are often the victims of exploitation and that it is difficult to monitor their conditions of employment because of the hidden nature of their work. It also reminds the Government that, under the terms of *Article 1* of the Convention, every member State must take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee therefore urges the Government to take effective and time-bound measures to ensure that children who are victims of exploitation in domestic work are removed from this worst form of child labour and are rehabilitated and integrated into society, particularly as part of the PANETE-RIM. The Committee requests the Government to provide information on progress made in this regard.***

Application of the Convention in practice. Further to its previous comments, the Committee observes that, according to the 2015 report on child labour, children work in sectors including mechanical engineering, fishing, agriculture, herding, small-scale commerce, as domestic workers or cart drivers. Moreover, the children work in hazardous conditions that are likely to harm their health, with most of them working on the streets and for long hours. The Committee notes that: child cart drivers are particularly exposed to traffic accidents; child dockers transport heavy loads that are harmful to their health; children are exposed to serious risks in mechanical engineering, including from the suspension of engines in garages; children in rural areas are exposed to the sun; some girls working in hotels and restaurants have been victims of rape; and children generally work the whole day without a break (pages 21–22). Furthermore, according to the PANETE-RIM, child shepherds under 10 years of age who take care of livestock wake early, go to bed late and work more than 16 hours per day exposed to dangers connected with that activity (paragraph 2.4). The Committee expresses its **concern** at the situation of children engaged in the worst forms of child labour, including hazardous work in Mauritania. ***The Committee urges the Government to take immediate and effective measures to ensure protection in practice for these children against the worst forms of child labour, particularly as part of the implementation of the PANETE-RIM. It also requests the Government to provide statistics on the nature, extent and trends of the worst forms of child labour, particularly in the informal economy. All information provided should, as far as possible, be disaggregated by sex and age.***

The Committee is raising other points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Morocco

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Article 2(1) of the Convention. Minimum age for admission to employment or work and application of the Convention in practice. 1. *Children working in informal artisanal activities and other sectors.* In its previous comments, the Committee noted that, according to the International Trade Union Confederation (ITUC), child labour was common in informal artisanal activities. It also noted that, according to the report entitled “Understanding Children’s Work in Morocco”, 7 per cent of children between 7 and 14 years of age were engaged in work, while 18 per cent of children were economically active in the 12 to 14 age group. According to this study, 87 per cent of working children were in rural areas, where they worked in agriculture. The Committee also observed that, under section 4 of the Labour Code, children employed in informal artisanal activities, or formal artisanal activities involving five employees or fewer, do not enjoy the protection of the Labour Code and, consequently, do not benefit from the application of the minimum age of 15 years for admission to employment or work. The Committee noted that, according to the survey of children’s work in small agricultural undertakings in Morocco (2014), the average age of children working in small agricultural undertakings was 14.3 years, with the over-15 age group accounting for nearly 57 per cent of the total and the under 12 age group for 10 per cent. It further noted that the average school dropout age was 13 years. The Committee noted with interest the Government’s statement that the bill concerning conditions of work and employment in activities of a purely traditional nature (bill on traditional activities), which prohibits work for children under 15 years of age in this sector in accordance with sections 143 and 153 of the Labour Code, was examined by the Council of the Government on 25 December 2014.

The Committee notes the Government’s indication in its report that the bill on traditional activities has been amended to incorporate new protectionist provisions which are favourable to workers in the sector and that it was referred to the Secretariat-General of the Government on 7 June 2018. The Committee also notes that, according to the quarterly employment survey of the Office of the High Commissioner for Planning, a total of 46,662 children under 15 years of age were engaged in work in the third quarter of 2017 and over 88 per cent of them were working in rural areas. The Committee further notes that the United Nations Human Rights Committee, in its concluding observations of December 2016, expressed concern at the continued economic exploitation of children, particularly in agriculture (CCPR/C/MAR/CO/6, paragraph 47). The Committee recalls that the Convention applies to all sectors of economic activity and all forms of employment or work, including the artisanal and agricultural informal economy. ***The Committee expresses the firm hope that the bill concerning conditions of work and employment in activities of a purely traditional nature will be adopted in the very near future and requests the Government to send a copy when it has been adopted. It requests the Government to continue its efforts to combat child labour, especially in the artisanal and agricultural sectors, and to provide information on the implementation of any project in this regard and the results achieved.***

2. *Child domestic workers.* ***As regards the issue of child domestic labour, the Committee requests the Government to refer to its detailed comments on the Worst Forms of Child Labour Convention, 1999 (No. 182).***

Article 9(1). Penalties. In its previous comments, the Committee noted that section 151 of the Labour Code provides that the employment of a child under 15 years of age, in breach of section 143 of the Labour Code, shall be punishable by a fine of 25,000–30,000 dirhams (MAD) (US\$3,000–3,600), and that a repeat offence is subject to a term of imprisonment of six days to three months and/or a fine of MAD50,000–60,000 (US\$6,000–7,200). It nevertheless noted that sections 150 and 183 of the Labour Code provide for a fine of MAD300–500 (US\$36–60) for breaches of sections 147 and 179 of the Labour Code (prohibiting the employment of children under 18 years of age in hazardous work, in quarries or mines, or in work likely to hamper their growth). The Committee noted with regret the lack of information on any legislative amendments relating to penalties for violations of the ban on employing children under 18 years of age in hazardous work. Furthermore, the Committee noted that, before resorting to penalties, labour inspectors must give advice and information to employers on the dangers to which child workers are exposed. Under sections 542 and 543 of the Labour Code, a labour inspector who detects a violation of the safety and health provisions or regulations that poses an imminent risk to the workers’ health or safety shall issue an order requiring the employer to take all the necessary measures immediately. It is only if the employer refuses or fails to comply with the requirements of the order that the labour inspector shall immediately refer the matter to the court of first instance, where the employer may be given a deadline for taking all necessary steps to prevent the imminent danger and may order the closure of the establishment and determine, where appropriate, the necessary duration of the closure. The Committee observed that persons who have employed children in breach of the provisions giving effect to the Convention are not generally prosecuted if such employment is brought to an end.

The Committee notes the Government’s indications that in 2017 labour inspectors carried out 684 inspections in which they made 2,306 observations and issued 43 compliance notices. The Government indicates that, out of 85 working children under 15 years of age, 70 were removed from work and, out of 542 children between 15 and 18 years of age engaged in hazardous work, 158 were removed from such work. The Committee notes with **regret** that the Government has not sent any information on the number of persons prosecuted and the penalties imposed on persons violating provisions giving effect to the Convention. Furthermore, the Committee notes with **concern** that despite the fact that it has been raising this issue since 2005, the penalties for violating the prohibition on the employment of children under 18 years

of age in hazardous work still do not constitute an adequate deterrent to ensure the application of the provisions of the Convention concerning hazardous work. ***The Committee urges the Government to take the necessary measures to ensure that all persons who employ children under 18 years of age in hazardous work are prosecuted and incur penalties that constitute an effective and adequate deterrent, in accordance with Article 9(1) of the Convention and in line with the more severe penalties envisaged in section 151 of the Labour Code. The Committee also requests the Government to provide information on the type of violations of the Convention detected by the labour inspection services, the number of persons prosecuted for each type of violation and the penalties imposed, particularly in relation to the provisions giving effect to the Convention.***

The Committee is raising other points in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

Articles 3(a) and (d) and 7(1) of the Convention. Forced or compulsory labour, hazardous work and penalties. Child domestic labour. In its previous comments, the Committee noted the statement by the International Trade Union Confederation (ITUC) that child domestic labour, performed under conditions of servitude, is common practice in the country, with parents selling their children, sometimes as young as 6 years of age, to work as domestic servants. The Committee noted that section 10 of the Labour Code prohibits forced labour and that section 467-2 of the Penal Code prohibits the forced labour of children under 15 years of age. It further noted that a bill concerning domestic work, fixing the minimum age for this type of employment at 16 years, was in the process of being adopted. The Government indicated that a specific list determining hazardous types of work prohibited in the domestic work sector had been drawn up and would be circulated for approval after promulgation of the abovementioned bill. Furthermore, an initial survey of girl domestic workers indicated a total of nearly 23,000 girls under 18 years of age engaged in domestic work in the Greater Casablanca area, 59.2 per cent of whom were under 15 years of age. The survey revealed that many of these girls were victims of abuse. The Committee noted with concern the observation of the United Nations Committee on the Rights of the Child (CRC) that the authorities had not taken sufficient measures to remove girls, some only 8 years old, from households where they are employed as domestic workers in precarious conditions. The Committee urged the Government to take the necessary steps to ensure that the abovementioned bill and the list of hazardous types of domestic work were adopted as a matter of urgency.

The Committee notes with **satisfaction** the adoption of Act No. 19-12 fixing the conditions of work and employment of male and female domestic workers. The Government refers in its report to the adoption of two implementing decrees, specified in sections 3 and 6 of the aforementioned Act, which establish, respectively, the standard employment contract for domestic workers and the list of hazardous types of work prohibited for domestic workers aged between 16 and 18 years. Activities prohibited for children include the use of chemicals and electric cutting tools or machines which may present a risk to the safety and health of domestic employees, and work which may expose domestic workers to health risks because of contact with persons suffering from contagious diseases.

The Committee notes that section 6 of Act No. 19-12 fixes the minimum age for admission to employment as a domestic worker at 18 years. The aforementioned section provides for a transition period of five years during which children between 16 and 18 years of age may be employed as domestic workers further to written permission from their guardians. Section 7 of the Act prohibits forced labour involving domestic workers. Under section 23 of the Act, persons who infringe sections 6 and 7 are liable to a fine of 25,000–30,000 Moroccan dirhams (MAD) (US\$3,000–3,600) and, in the case of a repeat offence, a fine of double the amount and/or three months' imprisonment. The Committee further notes that the United Nations Human Rights Committee, in its concluding observations of December 2016, expressed concern at the continued economic exploitation of children, particularly as domestic workers (CCPR/C/MAR/CO/6, paragraph 47). While noting the Government's efforts to regulate domestic work, the Committee reminds the Government that, under *Article 3(a) and (d)* of the Convention, work done by young persons under 18 years of age under conditions similar to slavery or under hazardous conditions constitutes one of the worst forms of child labour and, under *Article 1*, must be eliminated as a matter of urgency. ***The Committee therefore requests the Government to continue its efforts to combat child domestic labour, particularly by ensuring that Act No. 19-12 fixing the conditions of work and employment of male and female domestic workers is applied in practice, and that penalties constituting an effective deterrent are imposed in practice on any individuals who subject children under 18 years of age to domestic work in hazardous or abusive conditions. It requests the Government to provide information on the number and nature of reported offences, the number of prosecutions and the penalties imposed.***

Article 3(a). Trafficking of children. In its previous comments, the Committee noted that there was no national legislation relating to the trafficking of children. It also noted the CRC's observation that Morocco remains a country of origin, destination and transit for children, who are subjected to forced labour, particularly as domestic workers, and also to trafficking for sexual exploitation and forced begging, two-thirds of trafficking victims being children. The Committee further noted that the 2015 study on the trafficking of women and children in Morocco, produced jointly by UN Women, Morocco and the Swiss Confederation, refers to the existence of forced labour for boys in craft work and agriculture and also of trafficking for sexual exploitation in the form of prostitution or pornography. The Committee asked the Government to take the necessary steps to ensure the adoption of legislation prohibiting the trafficking of children.

The Committee notes with *interest* the adoption of Act No. 27-14 concerning action against trafficking in persons, promulgated by Dahir No. 1-16-104 of 18 July 2016, under which the definition of exploitation includes all forms of sexual exploitation, particularly exploitation of the prostitution of third parties and exploitation in the form of pornography, including through electronic communication media, and also exploitation in the form of forced labour, servitude, begging, slavery or similar practices, and exploitation in armed conflicts (section 448.1). The Committee notes that, under section 448.4, traffickers of persons are liable to imprisonment of 20–30 years and a fine of MAD200,000 to MAD2 million (US\$21,000–210,000) when the victims are young persons under 18 years of age. The Government indicates that the Act contains provisions relating to institutional measures and provides for the setting up of a national advisory committee whose mandate is to put forward proposals on combating trafficking of persons and to ensure that the necessary steps are taken to support projects run by associations providing assistance for victims.

However, the Committee notes that, according to the report on the work and recommendations of the July 2017 study day on the institutional framework for combating human trafficking, Morocco continues to be a country of origin, transit, and destination for the trafficking of children for labour or sexual exploitation and domestic servitude. The report emphasizes that Morocco has become a country of transit for many migrants originating from sub-Saharan Africa and Asia, who are at special risk of becoming victims of trafficking networks. ***While noting the efforts made by the Government to combat trafficking in persons, the Committee requests the Government to provide information on the application in practice of Act No. 27-14 concerning action against trafficking in persons, indicating in particular the number of child victims of trafficking, disaggregated by gender and age, and the number and nature of prosecutions and penalties imposed.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and removing them from these worst forms, and ensuring their rehabilitation and social integration. Child prostitution and sex tourism. In its previous comments, the Committee expressed concern at the persistence of child prostitution and sex tourism involving young Moroccans and immigrants, particularly boys, despite the amendment to the Penal Code in 2003 making sex tourism a criminal offence. It noted the Government's indications that the scourge of the sexual exploitation of children remains unseen and unrecognized in Morocco, and so the Government is making every effort to tackle it. Moreover, the CRC, in its concluding observations of 2014, expressed concern at the growth of sex tourism in Morocco. The Committee also noted that, in the 2011 mid-term evaluation of the National Action Plan for Children 2006–15 (PANE), the Government indicated that PANE had recorded significant progress in the protection of child victims of sexual exploitation, by establishing new public structures for the protection of child victims of sexual violence, including care units in courts and hospitals, support units within the Directorate-General for National Security, guidance and support units in schools, the ONDE telephone helpline and child reception areas in police stations. In this context, the Committee noted that five child protection units (UPEs) were set up between 2007 and 2010 in Marrakech, Casablanca, Tangier, Meknès and Essaouira to ensure better medical, psychological and legal assistance for child victims of violence and mistreatment, including sexual and economic exploitation, and that hundreds of children have benefited. The Government indicated that it had established an integrated public child protection policy in 2013, which included the objective of protecting children from sexual exploitation.

The Committee notes the Government's indication that the "Integrated public policy for the protection of children in Morocco 2015–25 (PPIPM)", adopted on 3 June 2015, comprises five strategic objectives, including: (i) strengthening the legal framework for child protection and making it more effective; (ii) establishing regional integrated child protection mechanisms; and (iii) setting up information, follow-up/evaluation and monitoring systems. The Government refers to the setting up of a programme for the rehabilitation of the UPEs, developed by the Ministry for the Family, Solidarity, Equality and Social Development (MFSEDS) in collaboration with the National Assistance Agency and associations with expertise in this field, in order to reinforce structures for the social protection of children and improve the quality of care for children in difficult situations. In 2016, three new UPEs were set up in Salé, Taza and Agadir. The Committee notes that the Government does not provide any information on the number of children prevented from engaging in commercial sexual exploitation or removed from it by the UPEs. ***The Committee requests the Government to continue its efforts to combat the commercial sexual exploitation of children. It also requests the Government to send information on the implementation of the integrated public child protection policy with regard to sexual exploitation and also information on the number of children prevented from engaging in commercial sexual exploitation or removed from it by the UPEs.***

Clause (d). Children at special risk. Child domestic labour. The Committee previously noted the adoption of the "National programme to combat the use of young girls in domestic work (INQAD)" as part of the National Action Plan for Children. It also noted the results achieved through the ILO–IPEC–PAMODEC project, particularly the training of 50 labour inspectors in the area of child labour with a specific component on child domestic labour, three regional information and consultation meetings with the relevant stakeholders aimed at establishing a process for the preparation of regional plans to combat domestic labour, six training sessions on child domestic labour for educators and social facilitators in non-governmental organizations (NGOs), participation and consultation on the bill concerning domestic workers, the implementation of two action programmes against child domestic labour involving young girls in the regions of Rabat/Salé and Marrakech/Safi in support of the AMESIP and Al Karam associations (providing aid for children in precarious situations).

The Committee notes the Government's indications that financial support from the Government in 2017 enabled associations to develop projects, inter alia, to reduce child domestic labour involving young girls, while also taking action to reduce the school dropout rate. Even though the Government indicates that, in 2016, a total of 286 children under 15 years of age were removed from work and 271 children between 15 and 18 years of age were removed from hazardous work, including young girl domestic workers, the Committee notes the lack of information regarding the number of girls removed from domestic work in particular. ***The Committee encourages the Government to step up its efforts to identify, remove and reintegrate girls under 18 years of age who are employed in domestic work and are victims of economic or sexual exploitation, and requests it to provide information on the results achieved with respect to domestic work involving young girls.***

The Committee is raising other matters in a request addressed directly to the Government.

Mozambique

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

Article 2(1) of the Convention. Scope of application and labour inspection. 1. *Children working in the informal economy.* In its previous comments, the Committee noted that pursuant to sections 1 and 2 of Labour Law No. 23/2007, this Law only applies in the context of a labour relationship. In this regard, the Committee noted the Government's statement in its report to the United Nations Committee on the Rights of the Child (CRC) that informal trade is one of the most common forms of labour in which children are involved in Mozambique (CRC/C/MOZ/2, paragraph 356). It also noted from the concluding observations of the CRC that child labour remained a common practice on commercial cotton, tobacco and tea plantations and on family farms where children may, for example, herd livestock (CRC/C/MOZ/CO/2, paragraph 79). Moreover, according to the Multiple Indicators Cluster Survey (MICS) report, 25 per cent of children were engaged in child labour in rural areas, compared to 15 per cent in urban areas.

The Committee notes the Government's information that although the general labour inspectorate deals with the formal economy, children engaged in activities in the informal economy are protected through measures that include access to basic social assistance and free education. The Committee notes the information contained in a UNICEF publication of 2016, entitled "Child and Social Protection—Current Situation", that 22 per cent of children aged 5–14 years are engaged in labour primarily in the agricultural and domestic work sectors. ***The Committee requests the Government to continue to take the necessary measures to ensure that the protection afforded by the Convention is guaranteed to children working in the informal economy, including through the basic social assistance and free education programmes. It also requests the Government to provide information on the impact of these measures in preventing child labour in the informal economy. Moreover, referring to paragraph 343 of the General Survey of 2012 on the fundamental Conventions, which states that child labour in the informal economy can be addressed through monitoring mechanisms, including through labour inspection, the Committee encourages the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate services to better monitor children working in rural areas, particularly in the agricultural sector as well as in the domestic work sector. It requests the Government to provide information on specific measures taken in this regard, as well as on the results achieved.***

2. *Domestic work.* The Committee previously noted section 4(2) of the Regulations on Domestic Work (Decree No. 40/2008) which prohibits domestic work by children under 15 years of age, while permitting children of 12 years of age to be hired for domestic work with the permission of a legal representative. The Committee urged the Government to take the necessary measures to ensure that no child under the age of 15 years is permitted to engage in domestic work, except under the specific conditions laid down in *Article 7* of the Convention for light work.

The Committee notes the Government's statement that this issue will be considered during the review of the Labour Law. ***The Committee urges the Government to take the necessary measures to ensure the revision of the Labour Law, without delay, whereby children under 15 years of age are permitted to be engaged in domestic work, only as an exception based on specific conditions laid down in Article 7 of the Convention for light work. It requests the Government to provide information on any progress made in this regard.***

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted that the age of completion of compulsory schooling (13 years) was two years below the minimum age for admission to employment or work (15 years). The Committee accordingly urged the Government to take the necessary measures to raise the age of completion of compulsory education to 15 years so as to coincide with that of the minimum age for admission to employment or work.

The Committee notes with *interest* the Government's indication that the revised National Education System Act makes it compulsory to attend school until the completion of ninth grade, whereas earlier it was until the completion of seventh grade. ***The Committee requests the Government to provide a copy of the revised National Education System Act which establishes compulsory education up to ninth grade.***

Article 3(2). Determination of hazardous types of employment or work. In its previous comments, the Committee expressed the firm hope that the Government would take the necessary measures to develop and adopt a national list of

types of hazardous work prohibited for persons under the age of 18 years, in accordance with *Article 3(2)* of the Convention.

The Committee notes with *satisfaction* that the List of Work considered Hazardous for Children Decree No. 67 of 2017 has been adopted. According to section 1 of this Decree, children under the age of 18 years shall not be employed in prohibited types of work and activities which, by their nature, are harmful to their mental, physical, social and moral development. The list of hazardous types of work as listed in the Annex to the Decree include: work in agriculture, fish farming and forestry; fishing sector; mining and extracting; manufacturing industry; production and distribution of electricity, gas and water; construction; trade and commercial sector; transport and storage; health and social services; domestic services; work in the streets; and other work involving exposure to varied temperatures, ionizing and radioactive substances, repetitive movements, and work in confined spaces. Section 3 further lays down the penalties of fines amounting to five to ten times the minimum wage for any violations of the provisions of the Decree. ***The Committee requests the Government to provide information on the application in practice of sections 1 and 3 of the Decree No. 67 of 2017, including statistics on the number and nature of violations reported and penalties imposed.***

Article 7(1) and (3). Minimum age for admission to light work and determination of light work. The Committee previously noted that, by virtue of section 21(1) of the Labour Law, an employment contract entered into directly with a minor between 12 and 15 years of age shall only be valid with the written authorization of the minor's legal representative. It also noted that, under section 26(2) of the Labour Law, the Council of Ministers shall issue a legal authorization establishing the nature and the conditions of work that may be performed, in exceptional circumstances, by minors of between 12 and 15 years of age. In this regard, the Committee had recalled that, pursuant to *Article 7(1)* of the Convention, national laws or regulations may only permit the employment or work of persons of 13 to 15 years of age on light work, provided that such work is not likely to harm their health or development, or prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received. It also reminded the Government that, pursuant to *Article 7(3)* of the Convention, the competent authority shall determine what constitutes light work and shall prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken. ***Noting once again an absence of information on these points in the Government's report, the Committee once again requests the Government to take the necessary measures to bring the Labour Law into conformity with Article 7(1) of the Convention by permitting children only from the age of 13 years to be engaged in light work. It also requests the Government to take the necessary measures to regulate this work by determining the types of light work activities permitted for children between the ages of 13 and 15 years, including the hours during which, and the conditions in which, such employment or work may be undertaken.***

The Committee is raising other points in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution, pornography or pornographic performances. The Committee previously noted that the national legislation does not prohibit the use, procuring or offering of a person under 18 years for prostitution, the production of pornography or for pornographic performances. The Committee urged the Government to take the necessary measures to ensure the adoption of legislation prohibiting the use, procuring and offering of a person under 18 years of age for prostitution, for the production of pornography or for pornographic performances in accordance with *Article 3(b)* of the Convention, as a matter of urgency.

The Committee notes with *interest* the Government's information that the use of children under the age of 18 years for prostitution and for the production of pornography or for pornographic performances is prohibited in accordance with Decree No. 67/2017 on the List of Work Considered Hazardous for Children. The Committee notes, however, that the sanctions prescribed under section 3(1) and (2) of the Decree concern only fines (amounting to five or ten times the minimum wage for that activity, and ten to 20 times the minimum wage for the offences related to the worst forms of child labour). In this regard, the Committee refers to Paragraph 12 of Recommendation No. 190 which provides that member States should provide that the worst forms of child labour, such as the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, are criminal offences. ***The Committee, therefore, requests the Government to take the necessary measures to ensure that appropriate criminal penalties which constitute an effective deterrent are established for the offences related to the use, procuring or offering of a child for prostitution and for the production of pornography or for pornographic performances. The Committee asks the Government to provide information on the measures taken in this regard.***

Clause (d). Hazardous work. Children in domestic work. The Committee previously noted that section 4(2) of the Regulations on Domestic Work (No. 40) of 2008, prohibits employers from employing a person under 15 years of age in domestic work. It observed, however, that these Regulations did not address the issue of hazardous domestic work by children. In this regard, the Committee noted that children, particularly young girls, engaged in domestic work, were often victims of exploitation, worked in dangerous situations up to 15 hours a day and were subject to physical abuse. Noting with concern the situation of children working as domestic workers, the Committee urged the Government to take immediate and effective measures to protect these children from hazardous types of work.

The Committee notes with *satisfaction* that domestic work is one of the types of activities listed in Decree No. 67/2017 on the List of Work Considered Hazardous for Children and which is prohibited to children under the age of 18 years. The Decree lists certain domestic activities that are hazardous to children under 18 years, such as: long hours of work; night work; garden work with sharp objects; exposure to adverse climatic conditions; use of agro-toxic substances; work in inappropriate postures; and work in isolation and out of public view. ***The Committee requests the Government to provide information on the application in practice of Decree No. 67 of 2017, including the number of violations, investigations and penalties applied in relation to the employment of children under 18 years in hazardous domestic work.***

Article 4(1). Determination of hazardous types of work. With regard to this point, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138).

Article 7(2). Effective and time-bound measures. Clause (d). Reaching out to children at special risk. Orphans and other vulnerable children. In its previous comments, the Committee noted the efforts taken by the Government to enhance the protection of vulnerable children such as: the Basic Social Assistance Programme and the National Basic Social Security Strategy (ENSSB) which aims to provide financial assistance to households who have members who are not fit to work or who have orphaned children. It also noted the significant number of children who had been benefiting from these programmes. Moreover, the Committee noted from the 2014 Global AIDS Response Progress Report for Mozambique (GARP Report) that since 2011 there had been a high level of political support for orphans and other vulnerable children and an increase in the number of interventions which produced positive results in terms of support and access to education of orphans and other vulnerable children. However, it noted from the UNAIDS estimates of 2014 that there were 610,000 children below the age of 17 years who had been orphaned due to AIDS.

The Committee notes that the Government's report contains no information with regard to the measures taken to protect orphans and other vulnerable children from the worst forms of child labour. It notes that according to the latest data of the UNAIDS, 2017 an estimated 920,000 children under the age of 17 years are orphans due to AIDS in Mozambique. ***Recalling once again that orphans and other vulnerable children are at an increased risk of being engaged in the worst forms of child labour, the Committee urges the Government to intensify its efforts to ensure that such children are protected from the worst forms. It requests the Government to provide information on the effective and time-bound measures taken in this regard, and on the results achieved.***

The Committee is raising other points in a request addressed directly to the Government.

Myanmar

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2013)

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Compulsory recruitment of children for use in armed conflict. The Committee previously noted that the 1959 Defence Services Act (amended in 1974) and War Office Council Directive 13/73 of 1974 prohibit persons under the age of 18 from joining the armed forces. It also noted from the Report of the Secretary-General on Children and Armed Conflict of 5 June 2015 (A/69/926 S/2015/409) that a total of 357 cases of child recruitment and use by armed forces (*Tatmadaw*), including children as young as 14 years, were reported. Children were reported to be recruited by armed groups, including through abductions; into the formal ranks of the *Tatmadaw*; were deployed at the front line as combatants and in support roles; and were also used as porters and scouts. The Report of the Secretary-General on children and armed conflict further indicated the various positive steps taken by the Government, including the joint action plan signed with the United Nations in June 2012 to end and prevent the recruitment and use of children by armed forces, the endorsement of a work-plan for full implementation of this action plan, and the granting of monitoring access of the United Nations to the armed forces. The Committee requested the Government to strengthen its efforts to put a stop, in practice, to the recruitment of children under 18 years by the armed forces and armed groups.

The Committee notes the Government's information that following the signing of the joint action plan for prevention of underage recruitment in June 2012, the United Nations Country Task Force on Monitoring and Reporting (UNCTFMR) met with the Government of Myanmar 48 times and visited 16 military commands, 85 battalions and infantry units for monitoring. It also notes the Government's indication that military disciplinary actions were taken against 448 military personnel, including 96 officers, for recruiting under-age children into the *Tatmadaw*. Moreover, 877 military personnel who were enrolled before attaining 18 years were handed over to their respective parents and guardians. The Committee further notes the information provided by the Government on the various training courses, awareness raising activities, including through newspapers and TV and radio broadcasts, and legal education provided to military personnel concerning the implementation of the joint plan of action for prevention of underage recruitment as well as the prohibition of forced recruitments. It further notes from the Government's report under the Forced Labour Convention, 1930, (No. 29) that from 2007 to 2018, 754 cases, including 738 underage recruitment cases were received under the complaints mechanism of the Supplementary Understanding, of which 325 cases were closed by the ILO.

The Committee notes, however, that according to the Report of the Secretary General on Children and Armed Conflict of 16 May 2018 (A/72/865-S/2018/465), in 2017 the United Nations documented 428 cases of recruitment and use of children, the majority of cases being attributed to the *Tatmadaw*, including 166 cases of formal recruitment of

children, some as young as 13 years, and the informal and temporary use of about 200 children, for maintenance and cleaning duties. Furthermore, the United Nations verified 39 cases of recruitment and use of children by armed groups (Kachin Independence Army and Ta'ang National Liberation Army), and the use of 53 boys by the Border Guard Police for camp maintenance, construction and carrying of equipment. The Committee finally notes from the Report of the Special Rapporteur on the situation of Human Rights in Myanmar of March 2018 that although cases of recruitment and use of child soldiers by the *Tatmadaw* had decreased from February 2013 to June 2017, a total of 856 complaints were verified by the UNCTFMR (A/HRC/37/70, paragraph 38). While noting some of the measures taken by the Government, the Committee must express its **deep concern** at the continued use and recruitment of children by armed forces and groups. ***The Committee therefore strongly urges the Government to take the necessary measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed forces and groups. It also urges the Government to continue to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons, including military personnel and officials, who forcibly recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. The Committee requests the Government to provide information on the measures taken and the results achieved in this regard.***

Sale and trafficking of children. In its previous comments, the Committee noted that according to section 24 of the Anti-Trafficking in Persons Law of 2005 (Anti-Trafficking Law), persons guilty of trafficking in children (persons under 16 years, section 3) and youth (persons between 16 and 18 years) shall be punished with imprisonment for a period from ten years to life imprisonment and a fine. The Committee requested the Government to provide information on the application in practice of these provisions of the Anti-Trafficking Law, including the number of investigations, prosecutions and convictions made with regard to the offences related to the trafficking of children and youth.

The Committee notes the Government's information in its report that from 2012 to 2016, 120 cases of trafficking of children were reported and legal actions were instituted against 129 persons (54 males and 75 females), of which 85 persons were convicted with penalties of imprisonment ranging from five to 20 years. In addition, from 2017 to June 2018, 59 cases of trafficking of children were reported, leading to 40 prosecutions and 18 convictions with penalties of imprisonment ranging from 10 to 20 years. The Committee notes that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 25 July 2016, expressed concern that the State party remained a source country for trafficking in persons, and that women and girls continued to be trafficked to neighbouring and other countries for sexual and labour exploitation (CEDAW/C/MMR/CO/4-5, paragraph 28). It further notes that according to a report of the United Nations Office on Drugs and Crime, entitled *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand, 2017*, minors are among the many trafficking victims from Myanmar to Thailand for sexual and labour exploitation. Girls as young as 12 and 15 years are trafficked for sexual exploitation and children (girls and boys) aged 11 years and older are trafficked for labour exploitation. ***The Committee therefore urges the Government to intensify its efforts to ensure in-depth investigations and prosecutions against persons who engage in the trafficking of children. It requests the Government to continue to provide information on the number of investigations, prosecutions, convictions and penalties imposed pursuant to section 24 of the Anti-Trafficking Law. It also requests the Government to provide information on the number of victims identified, rehabilitated and integrated, disaggregated by gender and age.***

Clause (b). Use, procuring or offering of a child for pornography or pornographic performances. The Committee previously noted that section 66(f) of the Child Law No.9/93 provides for penalties for the offence related to using of a child (defined as a person under 16 years of age (section 2)) in pornographic cinema, video or television photography. It also noted that according to section 27 of the Anti-Trafficking Law, any person who is guilty of making use of a victim of trafficking for the purpose of pornography shall be punished with imprisonment for a period of five to ten years and a fine. The Committee requested the Government to take the necessary measures to ensure that the prohibition on the use of children for pornographic activities covered all children under 18 years of age.

The Committee notes the Government's information that the Child Law has been reviewed and the provisions under section 66(f) of the Child Law No. 9/93 and section 27 of the Anti-Trafficking Law have been amended in such a way so as to ensure the best interests of the child and have been inserted in the draft Child Law. The Government further indicates that this draft law is currently submitted to the Parliament. ***The Committee expresses the firm hope that the draft Child Law will contain provisions prohibiting the use, procuring or offering of all children under the age of 18 years for the production of pornography and for pornographic performances. It requests the Government to take the necessary measures to ensure the adoption of the draft Child Law, without delay and to provide information on any progress made in this regard.***

Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. In its previous comments, the Committee noted that section 22(c) of the Narcotic Drugs and Psychotropic Substances Law of 1993 makes it an offence to use children under the age of 16 years in acts related to the production, distribution, transportation, importation and exportation of a narcotic drug or psychotropic substance. It also noted that section 66(c) of the Child Law provides for penalties for employing a child under 16 years of age for begging. Referring to Articles 3(c) and 2 of the Convention, the Committee requested the Government to take the necessary measures to

ensure that the prohibition on the use of children for illicit activities, such as the production and trafficking of drugs or for begging covers all children under 18 years of age.

The Government's report does not contain any information on this matter. *The Committee therefore once again urges the Government to take the necessary measures, including within the framework of the revision of the Child Law, to ensure that the prohibition on the use of children for illicit activities, such as the production and trafficking of drugs or for begging covers all children under 18 years of age. It requests the Government to provide information on any progress made in this regard.*

Clause (d) and Article 4(1). Hazardous work and determination of hazardous work. In its previous comments, the Committee noted that section 65(a) of the Child Law and section 75 of the draft Law amending the 1951 Factories Act which prohibit the employment of children in work which is hazardous or harmful to the child's health and morals, apply only to persons under 16 years of age. It also noted the Government's information that the draft Shops and Establishment Law contained a provision prohibiting the employment of children under 18 years of age in hazardous work or work places.

The Committee notes with *interest* that the Shops and Establishments Law, which was enacted in 2016, prohibits the employment of persons under the age of 18 years in dangerous work or workplaces (section 14(d)). The Committee further notes from the ILO-IPEC Technical Progress Report (TPR) of June 2018 on the Myanmar Programme on the Elimination of Child Labour (My-PEC project), that a list of types of hazardous work prohibited to children under 18 years has been developed and validated by the Technical Working Group on Child Labour (TWGCL) after tripartite and wide stakeholder consultations. *The Committee expresses the firm hope that the draft list determining the types of hazardous work prohibited for persons under 18 years of age will be adopted in the near future. It requests the Government to provide information on any progress made in this regard. It also requests the Government to provide a copy, once it has been adopted.*

Labour inspection and application of the Convention in practice. The Committee notes the Government's information that some of the existing labour laws related to child labour, such as the Factories Act and the Shops and Establishments Act have been amended so as to bring them into line with ILO standards. Moreover, measures are also being undertaken to ensure occupational safety and health, welfare and legal rights of children who are working in factories, shops and establishments in accordance with the labour laws. The Committee also notes from the Government's report that a Technical Working Group on Child Labour (TWG), which consists of 31 members from the relevant ministries, as well as representatives of the ILO, UNICEF, employers' and workers' organizations and international NGOs was established in 2014 to draw Operational Guidelines and Terms of Reference in line with the child labour Conventions. The Government indicates that the TWG conducted 20 sessions and 14 workshops on child labour, five events on the World Day against Child Labour and several awareness-raising activities in order to eliminate child labour. Moreover, various capacity building trainings, and training for trainers were provided to labour inspectors by the Occupational Authority of Denmark. The Committee further notes the Government's information that from 2010 to until now, six persons were prosecuted for using child labour.

The Committee notes, however, that according to the 2015 Labour Force Survey Report, over 600,000 children among the 1.12 million children involved in child labour, are engaged in hazardous work, with 1.7 per cent in the age group of 5–11 years, 24.1 per cent in the age group of 12–14 years, and 74.6 per cent in the age group of 15–17 years. Key sectors where child labour occurs are agriculture, forestry and fishing; manufacture; wholesale and retail trade and repair of motor vehicles where children work for long hours, at night and in hazardous conditions. The Committee further notes from the ILO-IPEC document on Legal review of national laws and regulations related to child labour in Myanmar, Executive Summary, 2015 that law enforcement to fight child labour is very weak and remains a challenge in Myanmar, due to a number of reasons, including prevalence of work in the informal economy, general lack of legal awareness by employers and workers, lack of monitoring mechanisms and corruption. While noting some of the measures taken by the Government, the Committee must express its *concern* at the large number of children involved in hazardous work in Myanmar. *The Committee therefore urges the Government to intensify its efforts to eliminate hazardous child labour, including through strengthening the capacity and expanding the reach of labour inspectors to detect hazardous child labour, particularly in the informal economy. It also requests the Government to provide information on the implementation of any measures taken in this regard as well as any statistical information collected on the number and nature of violations detected and sanctions imposed related to children engaged in hazardous work, disaggregated by gender, age and economic sector.*

The Committee is raising other matters in a request addressed directly to the Government.

Nepal

Minimum Age Convention, 1973 (No. 138) (ratification: 1997)

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted from the report on the Annual Household Survey of Nepal 2013–14, that 29.4 per cent of children aged between 5 and 14 years were economically active, with a higher percentage of female children (33.9 per cent) than male children (25.3 per cent). Seventy per cent of the working children work for 20 hours or less per

week, while 5.5 per cent work for 40 hours or more. Among working children, 76.5 per cent were engaged in agricultural work and 19.3 per cent in other work. The Committee also noted from the Trafficking in Persons National Report of the National Human Rights Commission of March 2016 that despite several programmes being implemented by the Government to prevent children from becoming involved in child labour and its worst forms, an average of 500,000 students enrolled in grades 1 to 10 dropped out of school each year in Nepal. The Committee further noted that the Committee on Economic, Social and Cultural Rights (CESC), in its concluding observations of 12 December 2014, expressed concern at the high number of children under the minimum age who work in agriculture, quarries and mines, domestic servitude and pottery factories. The CESC also expressed concern at the weak enforcement of the legislation which prohibits child labour and the lack of information on the impact of awareness-raising campaigns conducted by the state party (E/C.12/NPL/CO/3, paragraph 21).

The Committee notes the Government's information in its report, that the National Master Plan to end Child Labour which aims to eliminate all forms of child labour by 2026, has been approved and that specific action plans for its effective implementation are being drafted by the concerned ministries. The Government further indicates that the coverage of the labour and occupational safety and health inspectors have been expanded and a manual for labour inspection training on child labour has been developed. In this regard, it notes the Government's information that from 2016 to 2017, the Department of Labour and Occupational Safety conducted child labour inspections in 220 enterprises. Moreover, the Government states that a new National Labour Force Survey has been conducted by the Central Bureau of Statistics and its report will be published by the end of 2018. The Committee further notes from the Technical Progress Report of the ILO-IPEC project entitled "Towards Achieving the Elimination of the Worst Forms of Child Labour as Priority (ACHIEVE)" that within the framework of this project, 14 wards in the four municipalities of Bhaktapur and Kavre districts were declared as child labour free.

The Committee notes however, that according to the information from the ILO document, "Child Labour in Nepal", 1.6 million children between 5–17 years are still involved in child labour in Nepal, including 621,000 children who are engaged in hazardous work. It also notes from the final draft of the National Master Plan to end Child Labour that although child labour seems to have decreased in some areas, it has increased in the majority of areas and there has therefore not been a significant improvement in the overall child labour situation in the country. While noting some of the measures taken by the Government, the Committee must express its **deep concern** at the significant number of children under the minimum age who are engaged in child labour and in hazardous work in Nepal. ***The Committee therefore urges the Government to strengthen its efforts to ensure the elimination of child labour, including through the adoption and implementation of effective measures within the National Master Plan. It requests the Government to provide information on the concrete measures taken in this regard and the results achieved. The Committee also requests the Government to continue to provide information on the inspections carried out by the labour and occupational safety and health inspectors, and on the number and nature of violations concerning the employment of children recorded and the penalties imposed. Lastly, it requests the Government to provide information on the findings of the National Labour Force Survey pertaining to child labour, disaggregated by age and gender.***

Article 2(1). Scope of application. Children working in the informal economy. In its previous comments, the Committee noted that the Child Labour (Prohibition and Regulation) Act of 2000 (Child Labour Act), which prohibits the employment of children below 14 years as labourers (section 3(1)), does not define the terms "employment" and "labourer". The Government indicated that the Act does not adequately cover the informal economy and that it is very difficult to enforce the provisions of the Convention in the informal economy due to limited infrastructure and financial resources. The Committee also noted from the report of the International Trade Union Confederation (ITUC) for the World Trade Organization General Council on the Trade Policies that formal employment agreements accounted for only 10 per cent of all employment relationships, so the Child Labour Act does not apply to 90 per cent of employment relationships. This report further indicated that working children were mainly found performing informal economic activity in quarries and mines, domestic servitude, agriculture and portering. In this regard, the Committee noted the Government's statement that the Labour Act of 1992, Children's Act, 1992 and the Child Labour Act were being revised and that those draft laws stipulate that labour inspectors shall inspect all workplaces to identify child labour.

The Committee notes the Government's statement in its report that the new Labour Act of 2017 has been adopted and enforced while the Children Act and Child Labour Act are still in the process of revision. It notes the Government's information that the Labour Act guarantees the right of labour inspectors to inspect all workplaces, including the informal economy. The Committee notes that section 94(1)(g) of the Labour Act, which spells out the powers, functions and duties of labour inspectors, states that the labour inspector shall inspect and find out whether children are employed or not and if found employed, shall rescue them immediately and take action against the employer. The Government further indicates that a Training for Trainers programme was organized for labour inspectors in collaboration with the Office of the Attorney-General. This programme has led to better coordination among officials both with regard to legal procedures to be followed and penalties to be applied in cases of violations of labour law. ***The Committee strongly encourages the Government to continue its efforts to strengthen the capacity and expand the reach of the labour inspectorate so as to better monitor child labour, including in the informal economy. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

Article 3(1) and (2). Minimum age for admission to hazardous work and determination of types of hazardous work. The Committee previously noted that sections 2(a) and 3(2) of the Child Labour Act prohibit the employment of persons under 16 years of age in any risky job or enterprise listed in the schedule, and that section 43(2) of the Labour Rules, 1993 prohibits the employment of persons under 16 years on dangerous machines and in operations which are hazardous to their health. It also noted that the Child Labour (Prohibition and Regulation) Act, 2000, listed different jobs, occupations and work environments that are hazardous and therefore prohibited to children below 16 years. The Committee further noted the Government's indication that the draft Child Labour Act contained provisions prohibiting the employment of children under 18 years in hazardous work and that a draft list of types of hazardous work, which contains approximately 29 occupations and activities prohibited for children and minors, had been developed in consultation with the workers' and employers' organizations.

The Committee notes the Government's indication that the list of types of hazardous work prohibited to children under 18 years has been finalized and is awaiting to be incorporated into the Child Labour Act, before adoption. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the list of types of hazardous work prohibited for children under 18 years of age will be adopted in the near future. It requests the Government to provide information on any progress made in this regard.***

Article 3(3). Admission to types of hazardous work from the age of 16 years. In its previous comments, the Committee noted that some of the activities contained in the proposed list of hazardous work, appeared to be prohibited to children under 16 years, for example, any work related to: adventures and sports tourism; transportation of passengers and heavy goods; garment, handloom, power loom and embroidery; and household chores or domestic work.

The Committee notes the Government's indication that the necessary measures will be taken to ensure that persons between 16 and 18 years will only be permitted to perform hazardous work if their health, safety and morals are fully protected and that they have received adequate training in that activity. ***The Committee expresses the firm hope that the Government will take the necessary measures to protect persons between 16 and 18 years who are engaged in hazardous types of work, as laid down under Article 3(3) of the Convention. It requests the Government to provide information on any progress made in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Articles 3(a) and 7(2)(b) of the Convention. Worst forms of child labour and time-bound measures to provide direct assistance for their removal and rehabilitation and social integration. Child bonded labour. In its previous comments, the Committee noted the Government's information that the *Kamlari* (girls sold into indentured labour) system is prohibited under the *Kamlari* Prohibition Act of 2013. It also notes the various measures taken to eliminate the bonded labour of children and to provide for their rehabilitation, social reintegration and access to education. In this regard, it noted the implementation of the *Kamlari* Scholarship which provided financial assistance to a number of freed *Kamlari* girls as well as the provision of education and vocational training within the National Plan of Action Against Child Bonded Labour, 2009. It noted, however, that the Committee on the Rights of the Child (CRC), and the United Nations Human Rights Committee on the International Covenant on Civil and Political Rights (CCPR), in their concluding observations of 3 June 2016 (CRC/C/NPL/CO/3-5, paragraph 68) and 15 April 2014 (CCPR/C/NPL/CO/2, paragraph 18), respectively, expressed concern about the continuity of practices of bonded labour such as *Haliya* and *Kamaiya* (agricultural based bonded labour practice), and *Kamlari* in some regions of the State party. The Committee urged the Government to strengthen its efforts to ensure the complete elimination of bonded labour of children under 18 years of age and to pursue its efforts to ensure appropriate services for their rehabilitation and social integration, including access to education.

The Committee notes the Government's information in its report, that the Ministry of Land Management and Poverty Alleviation has been implementing the Free *Kamaiya* and *Haliya* (bonded labour) Rehabilitation Programme through which grants are provided for purchasing land, building houses, and purchasing wood as well as skills development training and resettlement programmes to victims of bonded labour. Accordingly, from 2017 to 2018, 37 families were provided financial support to purchase land; 876 families to purchase wood; and 1,005 families for building houses. Moreover, five skill development trainings were provided to 80 *Kamaiyas* and *Haliyas*. In addition, during the fiscal year 2016–17, the Ministry of Education, Science and Technology provided financial assistance to 1,611 freed *Kamlari* girls, through the *Kamlari* Scholarship Directives, to pursue their education until grade 12. ***The Committee strongly encourages the Government to pursue its efforts to ensure that child victims of bonded labour receive appropriate services for their rehabilitation and social integration, including access to education. The Committee requests the Government to continue to provide information on the measures taken in this regard and on the results achieved.***

Article 3(b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances, and for the production and trafficking of drugs. The Committee previously observed that the prohibition on the use or involvement of children in an "immoral profession" under sections 2(a) and 16(1) of the Children's Act, 1992, applies only to children under 16 years. It also noted that pursuant to sections 2(a) and 16(4) of the Children's Act, children under 16 years are prohibited from being involved in the sale, distribution or trafficking of alcohol, narcotics or

other drugs. The Committee further noted the Government's information that the draft Children's Act contained provisions prohibiting the use, procuring or offering of all children under 18 years for the production of pornography or for pornographic performances as well as for the production and trafficking of drugs.

The Committee notes the Government's indication that the new Children's Bill has been approved by the Cabinet and is currently being tabled in the Parliament for adoption. ***The Committee expresses the firm hope that the Children's Bill which contains provisions prohibiting the use, procuring or offering of all children under 18 years of age for the production of pornography and for illicit activities, such as the production and trafficking of drugs, will be adopted in the very near future. It requests the Government to provide information on any progress made in this regard and to provide a copy, once it has been adopted.***

Articles 5 and 7(1). Monitoring mechanisms and penalties. Trafficking. In its previous comments, the Committee noted the Government's information that a National Committee on Controlling Human Trafficking, District Committees on Controlling Human Trafficking in 75 districts and local committees in 109 villages were established for the effective implementation of the Human Trafficking and Transportation (Control) Act of 2007. It also noted that the Women and Children Service Directorate, under the Nepal Police, provided services to all the Women and Children Service Centres in dealing with cases relating to trafficking in persons. Moreover, the Nepal Police and the Central Child Welfare Board (CCWB) were also involved in rescuing trafficked children. The Committee noted, however, that the Committee on Economic, Social and Cultural Rights (CESCR) and the CCPR, in their concluding observations of 2014, expressed concern at the high number of children who were trafficked for labour and sexual exploitation, as well as for begging and slavery, including in neighbouring countries; at the ineffective application of the Human Trafficking and Transportation (Control) Act and at the lack of information on investigations, prosecutions, convictions and sanctions imposed on traffickers (E/C.12/NPL/CO/3, paragraph 22; and CCPR/C/NPL/CO/2, paragraph 18). The Committee therefore urged the Government to take the necessary measures to ensure that thorough investigations and prosecutions of persons engaged in the sale and trafficking of children under 18 years of age were carried out and that sufficiently effective and dissuasive penalties were imposed in practice.

The Committee notes the Government's information that from 2015 to 2016: (i) 6,939 training programmes for stakeholders working against human trafficking were conducted, benefiting 37,632 trainees; (ii) interaction programmes with 167 stakeholders were conducted by the National and District Committees on Controlling Human Trafficking; and (iii) training programmes were provided to 486 officials from Nepal Police and District Courts. Moreover, a helpline for children and a Human Trafficking and Control Unit under the Ministry of Women, Children and Senior Citizens were established.

The Committee notes from the Trafficking in Persons National Report of the National Human Rights Commission of June 2017 (Report of the NHRC) that the number of trafficking cases registered by the Nepal Police is relatively low compared to the factual number of trafficking victims. This report indicates that in 2015–16, a total of 212 cases of human trafficking, involving 352 victims, were registered, of which four in ten victims were children. In this regard, the Committee notes from the Report of the NHRC that as per the interventions and the rescue efforts of the Crime Investigation Division of Kathmandu, the Nepal Police and Foreign Embassies to Nepal, an estimated 23,200 victims of trafficking were registered in 2015–16, including 13,600 potential victims of trafficking of which 50 per cent were children. This report further indicates that by the end of June 2016, an estimated 44,131 children who were recorded as being at high risk due to the earthquake of 2015 were also vulnerable to trafficking. Moreover, the Committee notes that the CRC, in its concluding observations of June 2016, expressed concern about the 2015 earthquake which exacerbated the vulnerability of orphans, children of indigenous groups, religious minorities, the Dalit community and migrant workers to human trafficking (CRC/C/NPL/CO/3-5, paragraph 66). ***The Committee therefore urges the Government to strengthen its efforts to combat trafficking in children, including through the strengthening of the capacities of the National and District Committees on Controlling Human Trafficking, the Human Trafficking and Control Unit and the Nepal Police, to ensure the effective monitoring and identification of child victims of trafficking. It also requests the Government to take the necessary measures to ensure that thorough investigations and prosecutions of persons engaged in the sale and trafficking of children under 18 years of age are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to provide information on the measures adopted in this respect and on the results achieved.***

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. In its previous comments, the Committee notes the various measures taken by the Government to improve access of children to basic education, such as the scholarship support to children of disadvantaged and minority groups, and girls; the "Mid-Day Meal" programme; and the "Welcome to School" programme, which assists in reaching out to disadvantaged children in the rural areas. The Committee further noted from the 2013 Progress Report of the Millennium Development Goals that although the net enrolment rate (NER) at the primary level reached 95.3 per cent in 2013, the net attendance rate at primary level was only 68.8 per cent and that at least 4.7 per cent (over 800,000 children) of primary school-age children, were still out of school. The Committee encouraged the Government to pursue its efforts to facilitate access to free basic education for all children, with a particular focus on children from disadvantaged minorities and other marginalized groups.

The Committee notes that the Government's report does not provide any further information on the measures taken to improve the functioning of the education system. However, the Committee notes from the Report of the NHRC that the Ministry of Education (MoE) issued a Compulsory Basic Education Guideline 2014. According to this report, the MoE provided scholarships to more than 1.3 million children, of which the majority was for girls and *Dalit* children in grades 1–8. The Committee further notes from the UNESCO statistics that in 2017, the NER in primary education reached 94.7 per cent (girls: 93.25 and boys: 96.08) with a transition rate to secondary education at 82.38 per cent. Moreover, the NER in secondary education reached 55.29 per cent (girls: 57.26 and boys: 53.42). However, the UNESCO statistics further indicate that about 381,448 children and adolescents were still out of school in 2017. The Committee further notes that the CRC, in its concluding observations of July 2016, expressed concern at the high number of children who are out of school; the high drop-out rate of girls; the low enrolment and high drop-out rates of indigenous children; and the significant gaps in the quality of education between rural and urban areas (CRC/C/NPL/CO/3-5, paragraph 58). ***Considering that access to education is one of the most effective means of preventing the engagement of children in the worst forms of child labour, the Committee requests the Government to strengthen its efforts to facilitate access to free and basic quality education for all children, with a particular focus on girls and indigenous children. It requests the Government to provide information on the measures taken in this regard and on the results achieved, particularly with regard to improving the functioning of the education system, increasing the school enrolment, attendance and completion rates, and reducing the school drop-out rates.***

The Committee is raising other matters in a request addressed directly to the Government.

Netherlands

Aruba

Minimum Age Convention, 1973 (No. 138)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 3(2) of the Convention. Determination of types of hazardous work. In its previous comments, the Committee noted the Government's indication that the proposal to allow the Director of the Labour Department to determine the types of hazardous work was with the Department of Legislation for technical evaluation and revision. The Committee urged the Government to take the necessary measures to ensure that, following the approval of the Department of Legislation, the Director of the Labour Department determines the types of hazardous work at the earliest possible date.

The Committee notes with **satisfaction** that the Government adopted Ministerial Decree No. 78 of 2013 which contains a list of types of hazardous work prohibited to young persons under the age of 18 years. This list comprises work involving lifting or pulling heavy weights; working continuously in the same position; work involving contact with toxic, carcinogenic, mutagenic substances as well as explosives, irritants or corrosive substances; work with wild, poisonous or dangerous animals; slaughtering of animals; work in establishments providing alcohol; work with or near dangerous machines or equipment involving fire, explosion, electrocution, bottlenecks, harvesting, cutting; work under water; work with devices that have harmful non-ionizing electromagnetic radiation; work with compressed gases; work exposing children to high noise and vibration; work in environments causing a risk of collapse; work near power lines; and work in hospitals. ***The Committee requests the Government to provide information on the implementation of Ministerial Decree No. 78, including the number and nature of violations regarding young persons engaged in hazardous work.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

New Zealand

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes the observations of Business New Zealand and the New Zealand Council of Trade Unions (NZCTU), communicated with the Government's report.

Articles 3(d) and 4(1) of the Convention. Hazardous work. Minimum age for admission to hazardous work. The Committee previously noted the Government's indication that children under 18 years cannot work in any restricted areas of licensed premises such as bars, licensed restaurants or clubs. However, it noted that, by virtue of section 54(d) of the Health and Safety in Employment Regulations of 1995 (HSE Regulations), hazardous work was prohibited for children under 15 years of age. It further noted the Government's statement that although according to the existing law, the specific legal restrictions on certain types of work were only applicable to children under the age of 15, children between the ages of 16 and 18 were protected by the general requirements of workplace health and safety legislation, which provides protection to all workers, regardless of age. The Committee also noted the reference made by the NZCTU to the findings of the Youth 2000 National Youth Health and Wellbeing Survey (Youth'12 survey), indicating the work-related accidents and injuries, some of which were fatal, caused to young persons under 18 years. Moreover, it noted the data of workplace fatalities from 2013 to 2015 of WorkSafe New Zealand, which indicated that of the 119 fatalities, 14 were children under the age of 18 with the majority occurring in the agricultural sector. The Committee recalled that Paragraph 4 of the Worst

Forms of Child Labour Recommendation, 1999 (No. 190), addresses the possibility of authorizing the employment or work of young persons in certain types of hazardous work as from the *age of 16* under strict conditions that their health and safety be protected and that they received adequate specific instruction or vocational training in the relevant branch of activity. In this regard, the Committee, referring to the 2012 General Survey on the fundamental Conventions, paragraph 380, emphasized that measures should be taken to raise the minimum age for admission to hazardous work to *16 years*, even if the required protective conditions were adequately provided.

The Committee notes the statement made by Business New Zealand that the statistics on workplace injuries and fatalities do not necessarily relate to the employment of children and young persons. On the contrary, in a number of instances the injured person was not an employee but someone present at the workplace to whom an accident occurred. It also notes the NZCTU's statement that it maintains its previous comments as there has been no change in the position of the law.

The Committee notes from the Government's report that the Health and Safety at Work Act 2015 (HSW Act) has been adopted and came into effect in April 2016 along with nine sets of supporting regulations on health and safety in specific sectors. The Committee observes that the HSW Act and some of its regulations apply to workers in general and do not contain any specific provisions for the health and safety of young workers while some others provide for specific restrictions on certain types of work for children under the age of 15 or 16 years. For example, sections 43–48 of the Health and Safety at Work (General Risk and Workplace Management) Regulations, 2016 (which amended the Health and Safety in Employment Regulations, 1995), require the person conducting a business or undertaking (PCBU) to ensure that no worker under the age of 15 years carries out or be present in any area of the workplace where: goods are manufactured or prepared for trade or sale; construction work is carried out; work related to logging or tree-felling is carried out; hazardous substances are manufactured, used or generated; or while night work is prohibited to persons under 16 years of age. Furthermore, workers under the age of 15 years shall not be required to lift heavy weights or perform other harmful tasks, or work at or with machinery. The Committee also notes the statistical information provided by the Accident Compensation Corporation which indicated that a total of 5,985 work related claims were recorded for persons between 15 and 18 years in 2016 and 6,448 such claims were recorded in 2017.

The Committee further notes the Government's information that it is in the process of undertaking an extensive multi-year work programme to reform New Zealand's health and safety system, aimed at reducing workplace injury and death by 25 per cent by 2020, recognizing that young workers are more vulnerable to health and safety risks. In this regard, the Committee notes with *interest* the Government's statement that, within the framework of this reform, it is envisaged to review the regulatory frameworks for young persons in relation to hazardous work, while considering raising the current age for admission to hazardous work from 15 to 16 years and to assure the safety of young persons below 18 years by seeking to provide training and supervision for young persons of 16 years in high-risk work. ***The Committee expresses the firm hope that the Government will continue to take the necessary measures, without delay, to ensure that the current review of the regulatory frameworks for young persons will take into consideration relevant international standards, in particular Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), relating to the requirement that employment or work as from the age of 16 be authorized on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity. The Committee requests the Government to provide information on any progress made in this regard.***

Article 4(1) and (3). Periodic revision of the types of hazardous activities. In its previous comments, the Committee had noted that the report of the Department of Labour (DoL) entitled *Schoolchildren in paid employment – A summary of research findings* identified the construction, agriculture and hospitality industries as posing the most risk to young workers, as well as some other types of work which are dangerous to young persons by volume, such as working in shops (including petrol stations and supermarkets) and working in restaurants, takeaway outlets and other eateries. It also noted the statement made by the NZCTU, with reference to a report by the Child and Youth Mortality Review Committee of 2014, that hazardous work on farms, including riding and using quad bikes and agricultural machinery, must be restricted in the interests of the safety and welfare of children.

The Committee notes the Government's information that as part of the review of the regulatory frameworks for young persons, types of hazardous work for young persons will be assessed and a revised list, including work in plants, work with machineries and vehicles (including tractors and quad bikes), will be established. The Government further indicates that the review will be carried out in consultation with the representative organizations of employers and workers and that the formal consultations are expected to begin by mid-2018. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the revision of the regulatory framework for young persons will result in the adoption of a concrete list of types of hazardous work prohibited to young persons, including work in plants, work with machineries and vehicles used for agricultural purposes as well as certain types of work in the agricultural, construction and hospitality industries, as identified by the report of the Department of Labour. The Committee requests the Government to provide information on any progress made in this regard.***

Article 5. Monitoring mechanisms and application of the Convention in practice. Following its previous comments, the Committee notes the Government's information that all work-related fatalities are investigated with the objective to establish the key facts relating to the cause of the event as well as to determine the immediate and underlying

causes of the event, ensure action by the duty holder(s) concerned in order to prevent a recurrence of the event, and to determine any breach of the relevant law. The Committee notes from the Government's report that according to the statistics from Worksafe New Zealand, nine incidents of work-related fatalities of children were notified from 2015 to the present including children from the age of 3 to 17 years. However, the Government states that these cases include not only children who are at work but also children present as bystanders in a workplace at the time of the incident. The Committee further notes the Government's information that it is currently working towards the next Youth Health and Wellbeing Survey on the types of work, hours, employment conditions and workplace safety covering all children and young people. ***The Committee expresses the firm hope that the Government will undertake the Youth Health and Wellbeing Survey in the near future, covering all children and young persons so as to better understand their working conditions and health and safety outcomes. It requests the Government to provide information on the results of the survey which, to the extent possible, should be disaggregated by age and gender.***

Nicaragua

Minimum Age Convention, 1973 (No. 138) (ratification: 1981)

Article 2(3) of Convention. Age of completion of compulsory schooling. In its previous comments, the Committee noted that the 2006 Education Act provides that schooling is compulsory only up to the age of 12 years. The Committee requested the Government to take the necessary measures to match the age of completion of compulsory schooling with the minimum age for admission to employment or work, which is 14 years. It also requested the Government to pursue its efforts to raise the school attendance rate and reduce the school drop-out rate in order to prevent work by children under 14 years of age.

The Committee once again notes with **regret** that the Government's report does not contain any information on the measures taken to align the age of completion of compulsory schooling (12 years) with the minimum age for admission to employment or work (14 years). The Committee notes that, even though article 121 of the Constitution of Nicaragua provides that primary education is free and compulsory, section 19 of the 2006 Education Act specifies that schooling is only compulsory until the sixth year of primary school (around 12 years of age). The Committee recalls that if compulsory schooling comes to an end before the age at which children are legally entitled to work, a vacuum may arise which regrettably opens the door for the economic exploitation of children (see the 2012 General Survey on the fundamental Conventions, paragraph 371). ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee once again requests the Government to take the necessary measures to guarantee compulsory schooling up to the minimum age for admission to employment or work, namely 14 years. It once again requests the Government to provide information in its next report on any progress achieved in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 7(2) of the Convention. Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. In its previous comments the Committee noted that, despite the Government's efforts to improve the school attendance rate, the percentage of children had increased in secondary school, but remained low. The Committee requested the Government to continue taking the necessary measures to improve the school attendance and completion rates, while giving particular emphasis to inequalities in access to education related to gender and regional disparities. It also requested the Government to provide information on the results achieved, disaggregated by age and gender.

The Committee takes due note of the statistical information provided in the Government's report which indicates that there was an increase in school attendance in 2017. The Committee also notes that, in the context of the measures adopted by the Government to improve school attendance and completion rates, while giving special emphasis to inequalities, the "Love" programme resulted in the integration in school of 19,665 girls, boys and young persons in 2017, and the promotion of 18,000 students to higher levels.

The Committee notes the Government's indication that girls, boys and young persons in a difficult situation or a situation of inequality are provided with support by educational centres through an early warning system, which facilitates the support and care provided to them. Similarly, the centres offer a prevention service for situations of vulnerability, such as early pregnancy for young girls, gender and other types of discrimination.

The Committee notes the awareness-raising activities described in the Government's report, including: (i) the launching of a day for the "Promotion of values", which benefitted from the participation of 6,677 education centres and 777,047 stakeholders from the education community; (ii) the training of 14,618 school security brigades with the participation of 147,520 students, parents and teachers; and (iii) weekly meetings on "Growing up with values", which benefitted 823,786 students and 34,648 teachers in 7,976 education centres in the country. It also notes an activity which, according to the Government, had a major impact on the education community, namely the "questions letterbox and messages board". This activity allowed the early detection of certain situations of difficulty among students. The Committee further notes that the Government reinforced the promotion of values and the prevention of situations of risk among children through the creation of an educational game application "Valopis" which, according to the Government,

reinforced the solidarity among students through play. ***While taking due note of the measures taken by the Government to improve the operation of the education system, the Committee encourages it to pursue its efforts to facilitate the access to education of all children, and particularly girls. It also requests the Government to provide information on the results achieved, disaggregated by age, gender and region.***

Clause(b). Direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Hazardous labour in agriculture. In its previous comments, the Committee requested the Government to provide information on the specific results achieved under the various programmes aimed at removing children and young persons from hazardous types of work in agriculture and on the measures taken to ensure their rehabilitation and social integration.

The Committee notes the information provided by the Government on the action it has taken for the prevention of child labour in various economic sectors including: 5,998 agreements concluded between employers and the Government and special visits to 1,801 workplaces with a view to providing information to 2,815 young persons on abuses at the workplace. Nevertheless the Committee notes that the Government has not provided information on the specific measures taken in the agricultural sector. ***While taking due note of the measures taken by the Government, the Committee encourages it to continue its efforts and requests it once again to provide information on specific results achieved through programmes to remove children and young persons from hazardous work in the agricultural sector and on the measures taken to ensure their rehabilitation and social integration.***

The Committee is raising other matters in a request addressed directly to the Government

Niger

Minimum Age Convention, 1973 (No. 138) (ratification: 1978)

The Committee notes the observations of the Confederation of Labour of the Niger (CNT), received on 4 April 2018.

Article 2(1) of the Convention. Scope of application, labour inspection and application of the Convention in practice. In its previous comments, the Committee noted the Government's indication that child labour exists primarily in the informal economy and that the scope of the new Labour Code does not cover own account work or work in the informal economy. The Committee also noted the Government's indication that labour inspectors encounter difficulties in detecting child labour in the informal economy due to its complexity and the inadequacy of their means of action. In this respect, the Ministry of Labour took measures to strengthen the capacities of the labour inspectorate, such as providing all labour inspection departments with a vehicle, recruiting new labour inspectors, increasing the budget of labour inspectors and creating new labour inspection services. The Committee noted that, according to the 2012 national survey on employment and the informal sector (ENESI) of the National Statistical Institute (INS), 50.4 per cent of children between 5 and 17 years of age (or around 1,922,637 children) were engaged in work in Niger, of whom 1,187,840 children were involved in hazardous types of work. The survey also showed that 40 per cent of jobs were in the informal economy. Lastly, the Committee observed that, according to the analysis undertaken jointly by the Government and UNICEF in 2013 of the situation of women and children in Niger, based on an equity and human rights approach, in general, nearly half (48 per cent) of children between 5 and 14 years of age were engaged in work. Moreover, one out of two children between 5 and 11 years of age (50 per cent) and 77 per cent of children between 12 and 14 years of age were engaged in agricultural work and other activities in domestic work.

The Committee notes the observations of the CNT, according to which the Government should adopt a programme to remove children from hazardous types of work in the agricultural sector.

It notes the Government's indication, in its report submitted under the Labour Inspection Convention, 1947 (No. 81), that it is envisaging the creation of labour inspection services in new communities. It observes that, in its concluding observations of June 2018, the Committee on Economic, Social and Cultural Rights expressed concern at the fact that the labour inspection system lacks financial and human resources and does not cover the informal sector, which accounts for 70 per cent of jobs (E/C.12/NER/CO/1, paragraph 40). According to the study published in 2014 entitled "The twin challenges of child labour and educational marginalization in the ECOWAS region" by Understanding Children Work (UCW), joint ILO, World Bank and UNICEF cooperation project, 90.2 per cent of children between 5 and 14 years of age who work in the agricultural sector perform unpaid family work, and 6.2 per cent work on their own account. The Committee therefore observes that only 2.7 per cent of children between 5 and 14 years of age who work in the agricultural sector are protected by the Labour Code. The study shows that children between 5 and 14 years of age account for 24 per cent of the total workforce in the agricultural sector. In the animal production sector, children account for 41 per cent of workers. Moreover, the Committee on Economic, Social and Cultural Rights states in its concluding observations of 2018 that a large number of children are economically exploited in the agricultural sector, slaughterhouses and domestic service, often in hazardous conditions (E/C.12/NER/CO/1, paragraph 46). The Committee once again expresses its **deep concern** at the number of children who have not reached the minimum age for admission to employment or work of 14 years who are compelled to work, often in hazardous conditions. ***The Committee urges the Government to take the necessary measures to eliminate work by children under 14 years of age, particularly in the informal economy, and in hazardous conditions. It also urges the Government to take the necessary measures to extend the scope of application of the Labour Code to the informal economy and to children working on their own account. It requests the***

Government to continue its efforts to strengthen labour inspection capacities and training so as to enhance direct interventions in the informal economy, and to provide information on the measures adopted and the results achieved in this respect.

Article 3(3). Authorization to employ children in hazardous work as from the age of 16 years. In its previous comments, the Committee noted that, for certain types of hazardous work, Decree No. 67-126/MFP/T of 7 September 1967 authorizes the employment of children over 16 years of age. It also noted that occupational health and safety committees had been established in enterprises and that they were responsible for training and awareness raising on safety. The Committee noted the statement by the Government representative to the Conference Committee on the Application of Standards, indicating that it is rare for child workers to be identified because occupational safety and health committees are only established in enterprises with over 50 employees. However, the Government indicated that a national coordination unit had been established, which had conducted a number of training activities for members of occupational safety and health committees. The Conference Committee strongly encouraged the Government to ensure that occupational health and safety committees carry out awareness-raising activities and training to ascertain that the conditions of work of young persons do not jeopardize their health and safety or their well-being.

The Committee notes the observations of the CNT, indicating that the Government has not set up occupational safety and health committees in enterprises to guarantee the health and safety of young persons between 16 and 18 years of age.

The Committee notes the Government's indication that, under section 145 of the Labour Code, labour inspectors may request the creation of an occupational safety and health committee in an establishment with less than 50 employees if such a measure is deemed necessary, for example, due to activity-specific hazards, the extent of the risks observed, the nature of the work, and the layout and equipment of the facilities. The Committee observes that section 374 of Decree No. 2017-682/PRN/MET/PS of 10 August 2017 on the regulatory component of the Labour Code provides that, in enterprises or establishments with less than 50 employees, workers must elect a titular delegate and a substitute delegate for occupational safety and health. ***The Committee urges the Government to provide information on the measures taken to ensure that the occupational safety and health committees and occupational safety and health delegates in enterprises ensure that the working conditions of young persons between 16 and 18 years of age do not jeopardize their health and safety, in accordance with Article 3(3) of the Convention. It requests the Government to provide information on the establishment of occupational safety and health committees and occupational safety and health delegates.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes the observations of the Confederation of Labour of Niger (CNT), received on 4 April 2018.

Articles 3(a) and 6 of the Convention. All forms of slavery and practices similar to slavery and programmes of action to eliminate the worst forms of child labour. Sale and trafficking of children. In its previous comments, the Committee noted that, according to the Government, the phenomenon of trafficking was a problem in Niger and that, according to the information obtained by the high-level fact-finding mission conducted in 2006, Niger is certainly a transit country, a country of origin and a country of destination for human trafficking, including the trafficking of children. The Committee noted the adoption of Ordinance No. 2010-086 of 16 December 2010 on combating trafficking in persons in Niger, which prohibits all forms of sale and trafficking and establishes prison sentences of from ten to 30 years in cases where the victim is a child. The Committee noted that the National Commission to Coordinate Action against Trafficking in Persons (CNLTP) and the National Agency to Combat Trafficking in Persons (ANLTP) had been established to design and implement national programmes, strategies and plans to combat trafficking in persons. A National Plan of Action to Combat Trafficking in Persons had been adopted by Decree No. 488/PRN/MJ of 22 July 2014, the implementation of which was to be ensured by the ANLTP between 2014 and 2019. The Committee also noted that the ANLTP had organized training and awareness-raising sessions to combat trafficking in persons. It noted with concern the low number of prosecutions and sanctions for persons engaging in the trafficking of children under 18 years of age.

The Committee notes that, according to the information provided by the ANLTP under the Forced Labour Convention, 1930 (No. 29), the capacities of labour inspectors will be strengthened so that they are able to better detect cases of trafficking through the exploitation of forced or compulsory labour, and the fourth national day of mobilization against trafficking will focus on the trafficking of children for purposes of prostitution, begging and forced labour. The ANLTP also indicates that training and awareness-raising activities have been developed for law enforcement officials and actors involved in protection, assistance and care for victims of trafficking. The Minister of Justice indicated at a round table on the Plan of Action to Combat Trafficking in Persons and the Smuggling of Migrants that the Plan would be based on six strategic areas, including: (i) strengthening measures to prevent trafficking; (ii) care for victims; and (iii) strengthening cooperation.

The Committee observes that the United Nations Deputy High Commissioner for Human Rights is concerned about the continued existence of trafficking in children (A/HRC/WG.6/24/NER/2, paragraph 27). The Committee on the Elimination of Discrimination against Women (CEDAW/C/NER/CO/3-4, paragraph 24) and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/NER/CO/R.1, paragraph 52) are also concerned about the persistence of trafficking in persons in Niger, including for purposes of sexual exploitation and forced labour. The Committee on the Elimination of Discrimination against Women also expresses concern over the

low prosecution and conviction rates in cases of trafficking in women and girls. The Committee notes the data of the Statistics Directorate of the Ministry of Justice provided by the Government, and once again notes the low number of persons prosecuted. The Government indicates, in its second periodic report to the Human Rights Committee of 23 March 2018, that Niger is a country of origin, transit and destination for human trafficking. It emphasizes that trafficking in women and children is becoming increasingly widespread in Niger and includes national and transnational trafficking for purposes of exploitation in domestic services and commercial sexual exploitation (CCPR/C/NER/2, paragraph 98). In its report to the Committee on the Rights of the Child of July 2018 on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Government indicates that, according to the judicial statistics for 2015, the number of victims of trafficking for purposes, inter alia, of sale, prostitution, forced labour or pornography is 687, 48.5 per cent of whom are minor girls. According to the International Organisation for Migration (IOM), out of the 107 victims of trafficking that it assisted in Niger between January and September 2017, of whom 60 per cent were children, more than half of them said that they had been subjected to forced begging and over 30 per cent of whom said that they had been sexually exploited. The Committee notes with **deep concern** the extent of trafficking, particularly of children, in the country, and the low number of persons prosecuted. **The Committee urges the Government to take immediate measures to ensure the effective implementation, in practice, of Ordinance No. 2010-086 on combating trafficking in persons in Niger and to provide, in particular, statistics on the number and nature of violations reported, investigations, prosecutions, convictions and penal sanctions imposed in cases of child victims of trafficking. Moreover, the Committee urges the Government to take the necessary measures to ensure the implementation of the National Plan of Action to Combat Trafficking in Persons, in particular in relation to the protection of children under 18 years of age. Lastly, the Committee requests the Government to continue to provide information on the activities undertaken by the CNLTP and the ANLTP, including training activities for law enforcement officials, prosecutors and judges.**

Articles 3 and 7(1). Sanctions. Clause (a). All forms of slavery or practices similar to slavery. Forced or compulsory labour. Begging. The Committee previously noted the indication of the International Trade Union Confederation (ITUC) that children are forced to beg in West Africa, including in Niger. For economic and religious reasons, many families entrust their children as from the age of 5 or 6 years to a spiritual guide (*marabout*), with whom they live until the age of 15 or 16 years (*talibé* children). During this period, the *marabout* has total control over the children and teaches them religion in exchange for the performance of various tasks, including begging. The Committee noted that the ANLTP had implemented a number of strategies to combat begging, including campaigns to raise the awareness of the public, local and customary authorities and *marabouts*, as well as training for community media, prosecutors and officers of the judicial police. The Government indicated that it had conducted an operation that involved returning persons found begging in public areas to their villages following their identification and facilitating their social and vocational reintegration. The Committee noted with concern that, although sections 179, 181 and 182 of the Penal Code punish any person who asks minors under 18 years of age to beg or who knowingly profits from such begging, the Government did not refer to any convictions of *marabouts* exploiting children for purely economic purposes.

The Committee notes the CNT's indication that the Government is not managing to enforce sections 179, 181 and 182 of the Penal Code on begging. The Committee notes the Government's indication, in its report, that a National Forum on Begging took place in December 2015 with a view to combating the phenomenon. The Government adds that several training sessions on the rights of the child have been held to strengthen the capacity of defence and security forces. The Committee nevertheless once again notes with **concern** that the statistics provided by the Government still do not show any conviction of *marabouts* who have used children for purely economic purposes. The Committee recalls that, under *Article 7(1)* of the Convention, the Government must take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention including the application of penal sanctions. **The Committee therefore once again urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions are carried out and that sufficiently effective and dissuasive sanctions are imposed upon marabouts who use children under 18 years of age for purely economic purposes. In this regard, the Committee requests the Government to continue to take the necessary measures to strengthen the capacities of law enforcement bodies. The Committee also requests the Government to continue to take effective and time-bound measures to prevent children under 18 years of age from becoming victims of forced or compulsory labour, such as begging, and to identify talibé children who are compelled to engage in begging, remove them from such situations and ensure their rehabilitation and social integration. The Committee requests the Government to provide information on the progress achieved in this respect.**

Clause (d) and Article 4(1). Hazardous work and the determination of hazardous types of work. In its previous comments, the Committee noted the existence of child labour, including children engaged in hazardous types of work, particularly in mines and quarries, at informal sites, where young children accompanied their parents and were involved in the production chain, in gypsum mines and in salt quarries, sometimes performing small tasks to assist their parents' work on site or, in some cases, performing physically dangerous tasks, for more than eight hours a day, every day of the week, running the risk of accident or disease. The Committee noted that section 152 of Decree No. 67-126/MFP/T of 7 September 1967 prohibited the employment of children in underground work in mines and that the Minister of the Interior had prohibited the employment of children in mines and quarries in the areas concerned, namely Tillabéri, Tahoua and Agadez, by means of a circular. It nevertheless noted that no convictions in this area had been secured. The

Government indicated that the new regulatory component of the Labour Code was under discussion and would take into account the issue of reviewing and amending the list of hazardous types of work. The Committee requested the Government to adopt the revised list of hazardous types of work, by extending the protection of the Convention to children working in mines in the informal sector.

The Committee notes with *satisfaction* that Decree No. 2017-682-PRN/MET/PS on the regulatory component of the Labour Code, adopted on 18 August 2017, contains a revised list of dangerous types of work prohibited for children under 18 years of age, including a prohibition on employing children under 18 years of age in gold panning and other artisanal mining. The Committee observes that, in its concluding observations of 4 June 2018, the Committee on Economic, Social and Cultural Rights expresses concerns at the number of children who are economically exploited in mines, often in hazardous conditions (E/C.12/NER/CO/1, paragraph 46). ***The Committee urges the Government to take immediate measures to ensure the effective implementation of the national legislation protecting children against underground work in mines and against work in gold panning and other artisanal mining, and to provide information on the progress achieved in this regard.***

Article 6 of the Convention. Programmes of action. Plan of action to combat the sexual exploitation of children. The Committee previously noted that a National Plan of Action to Combat the Sexual Exploitation of Children was due to be adopted by the Government. The Committee once again notes the absence of information from the Government in this regard, even though the Plan was drawn up in 2007. It notes the Government's indication that several associations conduct activities to combat the sexual exploitation of children for commercial purposes in Niamey and in the regions of Tillabéri and Dosso. ***The Committee urges the Government to step up its efforts to combat the sexual exploitation of children and to expedite the adoption of the National Plan of Action to Combat the Sexual Exploitation of Children, as a matter of urgency. It requests the Government to provide a copy of this Plan when it has been adopted.***

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. 1. Street children. In its previous comments, the Committee noted that the Committee on the Rights of the Child had expressed concern at the number of children begging in the streets. It noted the Government's indications that a Framework Document on Child Protection (DCPE) had been adopted in 2013, and that Judicial and Preventive Education Services (SEJUPs) had been established to place street children with host families further to an ordinance issued by a judge. The Committee nevertheless noted that, according to the Special Rapporteur on contemporary forms of slavery, SEJUPs appear to be scarce and unsuitable for street children, who number more than 11,000.

The Committee notes that, according to the Government, the "Protection of street children" project, developed by SEJUPs in partnership with UNICEF and the NGO Save the Children, has led to the placement of 200 street children between December 2011 and February 2013. As of 31 October 2015, 236 children had been removed from the streets, some of whom had received medical and psychological care and lessons in literacy. The Government also carried out actions to raise awareness of the issue of street children. It adds that SEJUPs have been replaced by Centres for the Prevention, Promotion and Protection of Persons (CEPPPs), particularly women and children, but that their effective implementation is compromised by the lack of human resources. The Government indicates in its report submitted under the Minimum Age Convention, 1973 (No. 138), that the CEPPPs will provide, inter alia, protection and direct assistance to persons, especially children and women, affected by violence or who find themselves in a situation of vulnerability. Moreover, the National Child Protection Programme 2014–19, developed in the framework of the DCPE, provides for the assistance, rehabilitation and reintegration of more than 250,000 vulnerable children, including street children. ***The Committee recalls that children in street situations are particularly vulnerable to the worst forms of child labour, and requests the Government to continue its efforts to protect them from such labour and to ensure their rehabilitation and reintegration in a targeted manner. It requests the Government to provide specific information on the results achieved in this regard, particularly in the framework of the National Child Protection Programme 2014–19 and the implementation of the CEPPPs.***

2. Children in domestic work. The Committee previously noted that, according to the Special Rapporteur on contemporary forms of slavery, 58.2 per cent of economically active children are child domestic workers, 65.5 per cent of whom are between 5 and 11 years of age. These children, who are primarily girls who leave the country for the city in order to escape poverty, are frequently subjected to physical, verbal and sexual violence, as well as discrimination; are paid very little, if anything; work long hours; may find themselves physically and socially isolated; and are not entitled to either weekly rest or holidays.

The Committee notes that, in its report attached to the Government's report under the Forced Labour Convention, 1930 (No. 29), the ANLTP indicates that awareness-raising activities, including on the domestic work performed by children, have been organized. The Committee observes that the statistics provided by the Government do not refer to any child victims of domestic servitude. ***Considering that child domestic workers are particularly exposed to the worst forms of child labour, the Committee once again requests the Government to take effective and time-bound measures to protect children engaged in domestic work from the worst forms of child labour, to provide the necessary direct assistance for their removal from child labour and to ensure their rehabilitation and social integration. The Committee requests the Government to provide information on the results achieved in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Nigeria

Minimum Age Convention, 1973 (No. 138) (ratification: 2002)

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted the adoption of a National Policy on Child Labour, 2013, followed by a National Action Plan for the Elimination of Child Labour 2013–17 (NAP) which aimed at reducing the prevalence of child labour by 2015 and its total elimination by 2020. It also noted from a report entitled “The twin challenges of child labour and educational marginalization in the ECOWAS region” by Understanding Children’s Work, a joint ILO–UNICEF–World Bank interagency research cooperation project, that among the ECOWAS countries, Nigeria has the largest number of 5–14 year olds in child labour, with 10.5 million children involved in child labour. The Committee further noted the Government’s information that it had developed a National Reporting Template on child labour which would serve as a monitoring and evaluation mechanism thereby harmonizing the activities of each stakeholder.

The Committee notes the Government’s information in its report that the Federal Ministry of Labour and Employment carried out a capacity-building workshop to validate the National Reporting Template by the National Steering Committee in the six geopolitical zones of the country for the purpose of generating relevant and reliable data on the elimination of child labour. Moreover, this template has been forwarded to all the 36 states of the Federation, the Federal Capital Territory (FCT) of Abuja and to the various stakeholders at the state and local government levels and the responses are being collated. The Government also indicates that it has organized a workshop on capacity building for State controllers of Labour, Labour Desk Officers in the 36 states and the FCT as well as other stakeholders in the National Steering Committee on Child Labour. Furthermore, the Government indicates that the country commemorates the World day Against Child Labour annually to sensitize the public and create awareness on child labour and the need for its elimination. The Committee further notes the data provided by the Government on the application in practice of child labour provisions. Accordingly, 606 violations of child labour were detected and in three cases, prosecutions were made and sanctions were applied. However, the Committee notes that according to the report based on the Multiple Indicator Cluster Survey (MICS) 2016–17 conducted by the National Bureau of Statistics with the support from UNICEF and the United Nations Population Fund (UNFPA), 50.8 per cent of children aged between 5 and 17 are involved in child labour in Nigeria, of which 39.1 per cent are working in hazardous conditions. While noting the steps taken by the Government, the Committee expresses its **deep concern** at the large number of children engaged in child labour in Nigeria. ***The Committee therefore urges the Government to intensify its efforts to ensure the elimination of child labour as laid down in the National Policy on child labour. It requests the Government to provide information on the concrete measures taken in this regard and the results achieved. The Committee also requests the Government to provide detailed information on the responses and data collected with regard to the employment of children and young persons through the National Reporting Template. Lastly, the Committee requests that the Government continue to provide information on the manner in which the Convention is applied in practice, including updated statistical data on the employment of children and young persons, especially regarding children working in the informal economy, as well as extracts from the reports of inspection services and information on the number and nature of violations detected and penalties applied. To the extent possible, this information should be disaggregated by age and gender.***

Article 2(1). Scope of application. Self-employment and work in the informal economy. In its previous comments, the Committee noted that section 2 of the Labour Standards Bill of 2008 (Labour Standards Bill), read in conjunction with the definition of an “employee” as laid down under section 60 of the Bill, does not apply to children working outside a formal labour relationship, such as children working on their own account or in the informal economy. In this regard, the Committee noted from the document on the National Policy on Child Labour, 2013, that child labour is more prevalent in the informal sector, which includes crafts and artisanal work and street-related activities, as well as in semi-formal sectors which includes activities in commercial agricultural plantations, domestic and hospitality services, the transport industry, and garment manufacturing. It also noted the Government’s information that the Labour Standards Bill had been withdrawn from the National Assembly and was being reviewed by the Tripartite Technical Committee (TTC) thereby making the necessary amendments in this regard.

The Committee notes the Government’s information that section 60 of the reviewed Labour Standards Bill has addressed this issue by broadening the definition of an employee to include, “other forms of employment both in the formal and informal economy” thereby ensuring protection for all working children, including self-employed children and children working in the informal economy. ***The Committee expresses the firm hope that the Labour Standards Bill will ensure the protection of all working children, including self-employed children and children working in the informal economy, as required by the Convention.***

Minimum age for admission to work. The Committee previously noted with concern the various minimum ages, some of them too low, prescribed by the national legislation. It noted that section 8(1) of the Labour Standards Bill prohibits the employment of a child (defined as persons under the age of 15 years (section 60)), in any capacity, except where he/she is employed by a member of his/her family on light work of an agricultural, horticultural or domestic character. The Committee observed that section 8(1) which establishes a minimum age of 15 years for employment or work as specified at the time of ratification is in conformity with *Article 2(1)* of the Convention. ***Noting the Government’s information that the revised Labour Standards Bill is awaiting the final validation by the social partners***

and other stakeholders, the Committee expresses its firm hope that this Bill, will establish a minimum age of 15 years for employment or work.

Article 3(2). Determination of hazardous work. The Committee previously noted that a list of types of hazardous work prohibited to young persons under 18 years of age had been identified and validated by the National Steering Committee. It also noted from the minutes of the Stakeholders Committee on the Review of the National Labour Bills of 4 May 2017, that section 60 of the Labour Standards Bill will have the list of hazardous work drafted by the National Steering Committee.

The Committee notes the Government's information that the list of types of hazardous child labour has been finalized and incorporated into the revised Labour Standards Bill as second schedule Part A. ***The Committee expresses the firm hope that the Government will take the necessary measures, without delay, to ensure that the list of types of hazardous child labour is adopted and implemented, thereby prohibiting hazardous types of work to children under 18 years of age. It requests that the Government provide information on the progress made in this regard.***

Article 6. Apprenticeship. The Committee previously noted that section 49(1) of the Labour Act permitted a person aged 12–16 years to undertake an apprenticeship for a maximum period of five years, while section 52(a) and (e) empowered the Minister to issue regulations on the terms and conditions of apprenticeship. It observed that sections 46 and 47 of the Labour Standards Bill of 2008 lay down the terms and conditions for entering into a contract of apprenticeship, but do not specify a minimum age. The Committee noted the Government's information that the Stakeholders Committee on the Review of the National Labour Bills had agreed to establish the minimum age of 14 years for apprenticeship programmes, and therefore amend section 46 of the Labour Standards Bill accordingly.

The Committee notes the Government's statement that section 46(1)A of the revised Labour Standards Bill has established a minimum age of 14 years for apprenticeship programmes. ***The Committee requests the Government to provide information on any progress made with regard to the adoption of the revised Labour Standards Bill which establishes a minimum age of 14 years for apprenticeship programmes, as laid down under Article 6 of the Convention.***

Article 7(1) and (3). Minimum age for admission to light work and determination of light work activities. The Committee previously observed that the Labour Act did not provide for a minimum age for admission to light work. It also noted that section 8 of the Labour Standards Bill, while allowing the employment of children under the age of 15 years in light work of an agricultural, horticultural or domestic character, did not indicate the lower minimum age at which such work may be permitted. It further observed that the conditions in which light work activities may be undertaken and the number of hours during which such work may be permitted were not clearly defined in the Labour Act. Moreover, it observed that the maximum working hours of eight hours per day prescribed under section 59(8) of the Labour Act would necessarily prejudice the attendance of young persons below the age of 15 years at school or vocational orientation or training programmes, as laid down under *Article 7(1)(b)* of the Convention. The Committee noted the Government's indication that the Stakeholders Committee on the Review of the National Labour Bills had agreed to address these issues.

The Committee notes the Government's information that section 8(1)A of the revised Labour Standards Bill has established a minimum age of 13 years for admission to light work. It also notes the Government's information that section 8(1) of the revised Labour Standards Bill contains provisions providing for the conditions and hours of work permitted to children of 13 years of age in light work activities. It further states that the list of activities that constitute light work are provided in schedule two of the revised Labour Standards Bill. ***The Committee requests the Government to take the necessary measures to ensure that the revised Labour Standards Bill which establishes a minimum age of 13 years for admission to light work, regulates the hours and conditions of work for light work and provides for a list of light work activities permitted to children from 13 years of age, will be adopted in the near future. It requests that the Government provide information on any progress made in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

Articles 3(a) and 7(2)(b) of the Convention. *All forms of slavery and practices similar to slavery and effective and time-bound measures. Compulsory recruitment of children for armed conflict and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration.* In its previous comments, the Committee noted from the Report of the Secretary-General on Children and Armed Conflict of 5 June 2015 (A/69/926-S/2015/409) that an increased number of children, both boys and girls, were recruited and used by Boko Haram in support roles and in combat. Children were reported to be used as human shields and as suicide bombers, particularly girls as young as 13 years. There were reports of children joining the Civilian Joint Task Force (CJTF) and other vigilante groups, voluntarily or forcibly, and used to man checkpoints, gather intelligence and participate in armed patrols. More than 500 young women and girls were reported to be abducted from their homes and schools and were subjected to forced labour, physical and psychological abuse and forced marriages to fighters of Boko Haram. This report also indicated that a large number of children were killed and maimed during Boko Haram raids in villages, targeted public places and schools.

The Committee notes the Government's information, in its report, that it has adopted measures to monitor the engagement of underaged children in vigilante groups by introducing a mandatory registration of the vigilante and armed groups through the Ministry of Defence, the police force and the Nigeria Security and Civil Defence Corps. It also notes

the Government's information that following negotiations with Boko Haram, 104 girls out of the 110 girls who were abducted from Dapchi's school and 104 Chibok schoolgirls out of the 276 girls who were abducted in 2014 were released. The Government report indicates that negotiations are ongoing through the mediating parties for the release of other girls.

The Committee notes from the Report of the Secretary-General on Children and Armed Conflict of 16 May 2018 (A/72/865-S/2018/465) (Report of the Secretary-General) that an action plan was signed between the CJTF and the United Nations to end and prevent the recruitment and use of children and a standing order was issued by the CJTF in this regard. According to the Report of the Secretary-General, the total number of verified cases of recruitment and use of children for armed conflict has decreased by almost 50 per cent, from 2,122 in 2016 to 1,092, including 738 boys and 353 girls, in 2017. However, the Report of the Secretary-General indicates that grave violations and abuses committed by Boko Haram against children remains gravely disturbing, in particular the use of children as carriers of person-borne improvised explosive devices as well as the large number of abductions. The Committee notes from the Report of the Secretary-General that the United Nations verified the killing of 570 children, maiming of 311 children, and 45 incidents of rape and other forms of sexual violence affecting 131 children. Almost half of all casualties resulted from suicide attacks perpetrated by Boko Haram. The Committee further notes that 189 children, including 107 boys and 79 girls, were abducted by Boko Haram between July and October 2017, and an additional 1,456 children in north-east Nigeria were verified as being abducted during previous years. Moreover, more than 100 girls were reported to have been abducted in Dapchi, Yobe State, in 2018.

While noting certain measures taken by the Government on the use of children in armed conflict, the Committee must once again **deeply deplore** the persistence of this practice, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. **While acknowledging the complexity of the situation on the ground and the presence of armed groups in the north-east of the country, the Committee strongly urges the Government to take measures, using all available means, to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment or use of children under 18 years of age into armed groups. It also urges the Government to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons, who forcibly recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to take effective and time-bound measures to provide for their rehabilitation and social integration and to provide information on the measures taken in this regard and on the results achieved.**

Article 7(2)(a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. In its previous comments, the Committee noted the various social protection policies and activities implemented in Nigeria with support from UNICEF for improving access to education, such as the School Feeding Programme, bursary and scholarship grants to indigenous families having children of school age, and the conditional cash transfer programme. It also noted from the *Nigeria: Education for All Review Report 2000–14* (EFA Review Report), that there was an increase in the enrolment rates at the primary and secondary levels. However, the Committee noted with concern the estimates from the UNESCO EFA Global Monitoring Report of 2013, that there were approximately 10.5 million children who were out of school in Nigeria.

The Committee notes from the Government's report that it has developed a National Policy on Inclusive Education, 2017, which is currently being implemented in Nigeria. It also notes that a Presidential Committee on the North-East has been set up and the Safe School Initiative was launched in 2014, through which over 2,531 students who were affected by the Boko Haram insurgency were transferred to safe schools and colleges. Moreover, the Government indicates that: (i) an enrolment campaign was launched in 2015 and is still ongoing to encourage out-of-school pupils to return to school; (ii) the Students Tutoring, Mentoring and Counselling Programme targeted at parents and students was developed in each of the three senatorial districts of 36 states and the Federal Capital Territory (FCT); and (iii) a Mother's Association for skill empowerment was established in 13 states and the FCT in order to reduce the number of school drop-outs. The Committee further notes the Government's reference to the statistical information from the Nigeria Digest of Education Statistics and Nigeria Education Indicator, 2016, which indicates an increase in the enrolment rates in primary schools by 0.58 per cent from 2015 to 2016, as well as an increase in the number of primary and junior secondary schools. However, the statistical data indicates a decrease by 1.28 per cent in enrolment rates in junior secondary schools, which the Government attributes to the insurgency in the north-east. The Committee finally notes the Government's statement that the ongoing Government efforts, such as: reviewing the goals of EFA; increasing Universal Basic Education Programmes; tackling the Boko Haram insurgency; and the rehabilitation of the internally displaced children will lead to a positive trend in the educational system of Nigeria. The Committee, however, notes with **deep concern** from the 2018 UNICEF report on education in Nigeria, that although primary school enrolment has increased in recent years, the net attendance is still low at about 70 per cent. Nigeria still has 10.5 million out-of-school children, which is the highest in the world, with 60 per cent of them in northern Nigeria, where the conflict has deprived many children of access to education. **While noting the measures taken by the Government, the Committee urges the Government to intensify its efforts to improve the functioning of the education system and to facilitate access for all children to free basic education, in particular children in north-eastern Nigeria. In this regard, the Committee requests the Government to take the necessary measures, to increase the school enrolment and attendance rates at the primary and secondary levels and to decrease the school drop-out rates. It requests the Government to continue to provide information on the concrete measures taken in this regard and to**

provide updated statistical information on the results obtained, particularly with regard to reducing the number of out-of-school children at the primary and secondary levels.

The Committee is raising other points in a request addressed directly to the Government.

Papua New Guinea

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Article 1 of the Convention. National plan of action and application of the Convention in practice. The Committee previously noted the comments made by the International Trade Union Confederation (ITUC) that child labour occurred in rural areas, usually in subsistence agriculture, and in urban areas in street vending, tourism and entertainment. It noted that Papua New Guinea was one of the 11 countries that participated in the 2008–12 ILO–IPEC **Time-bound Programme** entitled “Tackling child labour through education” (TACKLE project) which aimed at contributing to the fight against child labour.

The Committee notes from the Government's report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that within the framework of the TACKLE project, a rapid assessment was carried out in Port Moresby targeting children working on the streets and those involved in commercial sexual exploitation. The Committee notes the Government's statement that the findings of the rapid assessment conducted in Port Moresby were alarming and that it is believed that a similar child labour situation is occurring in other regions of the country. The rapid assessment findings indicate that children as young as 5 and 6 years of age are working on the streets and about 68 per cent of them worked under hazardous conditions. About 47 per cent of the street children between 12 and 14 years of age have never been to school and a further 34 per cent had dropped out of school. The Committee expresses its **deep concern** at the situation of children under 16 years of age who are compelled to work in Papua New Guinea. **The Committee, therefore, urges the Government to strengthen its efforts to improve the situation of children working under the age of 16 years and to ensure the effective elimination of child labour. Noting that there is no concrete or reliable data reflecting the real situation of children in the rest of the country, the Committee urges the Government to undertake a national child labour survey to ensure that sufficient up-to-date data on the situation of working children in Papua New Guinea is available.**

Article 2(1). Minimum age for admission to employment. The Committee had previously noted that, although the Government of Papua New Guinea had declared 16 years to be the minimum age for admission to employment or work, section 103(4) of the Employment Act permits a child of 14 or 15 years to be employed during school hours if the employer is satisfied that the child is no longer attending school. It also noted that, by virtue of sections 6 and 7 of the Minimum Age (Sea) Act, 1972, the minimum age to perform work on board ships is 15 years and 14 years, respectively.

The Committee notes the Government's information that the Australian Assistance for International Development through its Facilities and Advisory Services in close consultation with the ILO–IPEC and the Department of Labour and Industrial Relations has undertaken a review of the Employment Act and that the amendment process is ongoing. It also notes the Government's indication that this process will also address the issue related to the minimum age stipulated under the Minimum Age (Sea) Act, 1972. **Noting that the Government has been referring to the review of the Employment Act and the Minimum Age (Sea) Act for a number of years, the Committee once again urges the Government to take the necessary measures to ensure that the proposed amendments are adopted in the near future. In this regard, it expresses the hope that the amended provisions will be in conformity with Article 2(1) of the Convention.**

Article 2(3). Age of completion of compulsory education. The Committee previously noted that education is neither universal nor compulsory in Papua New Guinea, and that the law does not specify a legal age for entering school or an age at which children are permitted to leave school. It noted that the Education Department has developed a ten-year National Education Plan for 2005–15 (NEP) to enable more children to be in school. However, the Committee observed that the NEP seemed intended to make only three years of basic education compulsory up to the age of 9. Moreover, the Committee noted that according to the ITUC, the gross primary enrolment rate was 55.2 per cent, and only 68 per cent of these children remain at school up to the age of 10, while only less than 20 per cent of the country's children attend secondary school.

The Committee notes from the Government's report under Convention No. 182 that the NEP is being supported by donor agencies to implement programmes focusing on formal education and non-formal education (NFE), including assistance from the Asian Development Bank and the European Union in order to extend the NFE to the needy and the disadvantaged. The Committee notes, however, that according to the findings of the rapid assessment conducted in Port Moresby during 2010–11, although educational reforms are in place, 92.2 per cent of those children who enrolled in grade 3 would drop out along the way. The Committee expresses its **deep concern** at the significant number of children under the minimum age of admission to work who are not attending school. In this regard, the Committee must emphasize the desirability of linking the age of completion of compulsory schooling with the minimum age for admission to work, as provided under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). If compulsory schooling comes to an end before young persons are legally entitled to work, there may arise a vacuum which opens the door to the economic exploitation of children (see 2012 General Survey on the fundamental Conventions concerning rights at work, paragraph 371). **Therefore, considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to take the necessary measures, particularly within the framework of the NEP, to provide for compulsory education for boys and girls up to the minimum age for admission to employment of 16 years. The Committee requests the Government to provide information on the progress made in this regard.**

Article 3(1) and (2). Minimum age for admission to, and determination of, hazardous work. In its previous comments, the Committee noted that while certain provisions of the national legislation prohibit hazardous work for children under the age of 16 years, there exist no provisions protecting children between the ages of 16–18 years from hazardous work. The Committee also noted the absence of any list of types of hazardous work prohibited to children under the age of 18 years.

The Committee notes from the Government's report that the ongoing legislative review of the Employment Act will ensure the compliance of the provisions of the Convention related to hazardous work. **The Committee expresses the firm hope that the amendments to the Employment Act, which will include a prohibition on hazardous work for children under the age of 18**

years as well as a determination of types of hazardous work prohibited to such children, will be adopted in the near future. It requests the Government to provide information on any progress made in this regard.

Article 3(3). Admission to types of hazardous work from the age of 16 years. The Committee previously noted that the conditions of work for young people would be examined through the ongoing Employment Act review and that the legislation relating to occupational safety and health shall also be reviewed in a way to ensure that hazardous work does not affect the health and safety of young workers. *The Committee once again expresses the strong hope that the review of the Employment Act and of the legislation pertaining to occupational safety and health will be completed as soon as possible. It also hopes that the amendments made to the legislation will include provisions requiring that young persons between 16 and 18 years of age who are authorized to perform hazardous types of work receive adequate specific instruction or vocational training in the relevant branch of activity. It requests the Government to provide information on the progress made in this regard in its next report.*

Article 9(3). Registers of employment. The Committee previously noted that the Employment Act does not contain any provision requiring the employer to keep registers and documents of people under the age of 18 working for them. It also noted that section 5 of the Minimum Age (Sea) Act provides for registers to be kept by people having command or charge of a vessel, which contains particulars such as the full name, date of birth, and the terms and conditions of service of each person under 16 years of age employed on board the vessel. The Committee requested the Government to take the necessary measures to ensure that, in conformity with Article 9(3) of the Convention, employers are obliged to keep registers that shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom they employ or who work for them and who are less than 18 years of age.

The Committee once again notes the Government's information that this issue will be addressed within the review of the Employment Act. *The Committee expresses the firm hope that the Government will take the necessary measures, without delay, to ensure that employers are obliged to keep register of all persons below the age of 18 years who work for them and to provide information with regard to the progress made in ensuring that the Employment Act and the Minimum Age (Sea) Act are in conformity with Article 9(3) of the Convention.*

The Committee urges the Government to strengthen its efforts to ensure that, during its review of the Employment Act and the Minimum Age (Sea) Act, due consideration is given to the Committee's detailed comments on the discrepancies between national legislation and the Convention. The Committee requests the Government to provide information on any progress made in the review of these Acts in its next report and invites the Government to consider seeking technical assistance from the ILO.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children. The Committee previously noted that women and children were trafficked within the country for the purpose of commercial sexual exploitation and domestic servitude. It requested the Government to take the necessary measures, as a matter of urgency, to adopt legislation prohibiting the sale and trafficking of both boys and girls under 18, for the purposes of labour and sexual exploitation.

The Committee notes the Government's indication that it is addressing this issue through the adoption of the People Smuggling and Trafficking in Persons Bill which would amend the Criminal Code to include a provision prohibiting human trafficking, including children under the age of 18 years, for labour and sexual exploitation. However, the Committee notes that according to a survey conducted in 2012 within the framework of the Combating Trafficking in Human Beings in Papua New Guinea project implemented by the International Organization for Migration (IOM), trafficking for the purpose of forced labour, sexual exploitation and domestic servitude, including child trafficking, is occurring at a high rate in the country. Female children were indicated as over twice as vulnerable to becoming victims of trafficking than male children. The Committee further notes that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of 30 July 2010, expressed concern that there are no specific laws addressing trafficking-related problems and about cross-country trafficking, which involves commercial sex as well as exploitative labour (CEDAW/C/PNG/CO/3, paragraph 31). *The Committee, therefore, urges the Government to take the necessary measures to ensure the adoption of the People Smuggling and Trafficking in Persons Bill, without delay, and to ensure that thorough investigations and robust prosecutions of persons who commit the offence of trafficking of children are carried out and that sufficiently effective and dissuasive penalties are imposed in practice. The Committee requests the Government to supply a copy of the People Smuggling and Trafficking in Persons Bill, once it has been adopted.*

Article 7(2). Effective and time-bound measures. Clause (e). Taking into account the special situation of girls. 1. Child victims of prostitution. The Committee previously noted the Government's indication that the number of girls (some as young as 13) who engaged in prostitution as a means of survival was a growing problem in both urban and rural areas. Moreover, the Committee also noted that the laws prohibiting prostitution were selectively or rarely enforced, even in cases involving children.

The Committee notes the absence of information in the Government's report on the measures taken or envisaged to combat the commercial sexual exploitation of children. The Committee notes that, according to the findings of the rapid assessment conducted in Port Moresby during 2010–11, there are an increasing number of girls involved in commercial sexual exploitation. The most common age at which girls engaged in prostitution is 15 years (34 per cent), while 41 per cent of the children are sex workers before the age of 15 years. The survey report further indicated that girls as young as 10 years are also involved in sex work. The Committee once again expresses its *deep concern* at the prevalence of the commercial sexual exploitation of children in Papua New Guinea. *The Committee therefore urges the Government to take effective and time-bound measures to provide the necessary and appropriate direct assistance to remove children, particularly girls under 18 years of age from prostitution, and provide for their rehabilitation and social integration.*

2. "Adopted" children. The Committee previously noted the observation of the International Trade Union Confederation (ITUC) that indebted families sometimes pay off their dues by sending children – usually girls – to their lenders for domestic servitude. The ITUC indicated that "adopted" children usually worked long hours, lacked freedom of mobility or medical treatment, and did not attend school. The Committee also noted the Government's indication that the practice of

“adoption” is a cultural tradition in Papua New Guinea. The Committee observed that these “adopted” girls often fall prey to exploitation, as it was difficult to monitor their working conditions, and it requested the Government to provide information on the measures taken to protect these children.

In this regard, the Committee noted the Government’s reference to the Lukautim Pikinini Act of 2009 which provided for the protection of children with special needs. According to the Lukautim Pikinini Act, a person who has a child with special needs in his/her care but who is unable to provide the services required for the upbringing of a child may enter into a special needs agreement with the Family Support Service. Under these agreements, financial assistance may be provided. Pursuant to section 41 of the Lukautim Pikinini Act, the definition of a “child with special needs” includes children who have been orphaned, displaced or traumatized as a result of natural disasters, conflicts or separation, or children who are vulnerable to violence, abuse or exploitation.

The Committee notes that the Government has not provided any additional information on this issue. The Committee expresses its *concern* at the situation of “adopted” children under 18 years of age who are compelled to work under conditions similar to bonded labour or under hazardous conditions. *It once again requests the Government to take immediate and effective measures to ensure, in law and in practice, that “adopted” children under 18 years of age may not be exploited under conditions equivalent to bonded labour or under hazardous conditions, taking account of the special situation of girls. The Committee also requests the Government to provide information on the number of “adopted” children engaged in exploitative and hazardous work who have benefited from special needs agreements.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Saint Vincent and the Grenadines

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)

The Committee notes with *concern* that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Articles 3(d) and 4(1). Hazardous work. The Committee previously noted that the Employment of Women, Young Persons and Children Act (EWYPC Act), did not contain a general prohibition on the employment of children below 18 years of age in hazardous work, other than the prohibition on night work in any industrial undertaking (section 3(2)) nor a determination of hazardous types of work prohibited to children under 18 years of age.

The Committee notes the Government’s indication that consultation with stakeholders to address the issues related to hazardous work by children will be commenced shortly and a draft report will be prepared by the end of 2013. *The Committee expresses the firm hope that consultations with the stakeholders including the social partners will be held in the near future and legislation relating to the prohibition on hazardous work by children under 18 years of age as well as a regulation determining the types of hazardous work prohibited to children under the age of 18 years will be adopted soon. The Committee requests the Government to provide information on any developments made in this regard.*

Article 7(1). Penalties. *The Committee requests the Government to provide information on the application in practice of the sanctions established in the Trafficking Act of 2011 for the offences related to the sale and trafficking of children and for the use, procuring and offering of children for prostitution and child pornography.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Samoa

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2008)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion which took place at the 107th Session of the Conference Committee on the Application of Standards in June 2018, concerning the application by Samoa of the Convention.

Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances. The Committee previously noted that section 82 of the Crimes Act 2013, makes it an offence to sell, deliver, exhibit, print, publish, create, produce or distribute any indecent material that depicts a child engaged in sexually explicit conduct. It observed, however, that for the purposes of this section a child is defined as a person under the age of 16 years. The Committee therefore urged the Government to take the necessary measures to ensure that the use, procuring or offering of children between the ages of 16 and 18 for the production of indecent materials is also effectively prohibited.

The Committee notes the Government’s information in its report that the Ministry of Commerce, Industry and Labour (MCIL), with the technical assistance from the Samoa Technical Facility Project is carrying out a revision of the national legislation, including the Crimes Act in order to align the definition of a child with the provisions of the Convention. *The Committee expresses the firm hope that the Government will take the necessary measures, during the revision of the national legislation, to ensure that the definition of a child under section 82 of the Crimes Act will refer to persons under the age of 18 years, so that the prohibition under this section on the production and distribution of indecent materials depicting children will include children between 16 and 18 years of age. It requests the Government to provide information on any progress made in this regard.*

Article 4(1). Determination of hazardous types of work. In its previous comments, the Committee noted the Government's statement that a draft list determining the types of hazardous work prohibited to children would be submitted to the Samoa National Tripartite Forum for endorsement. The Committee expressed the firm hope that the list of types of hazardous work prohibited for children under 18 years of age would be finalized and adopted in the near future.

The Committee notes that at the Conference Committee, the Employer members expressed their concern over the absence of a list of hazardous work in which the employment of young persons is prohibited.

The Committee notes with *interest* the Government's indication that the Hazardous Work List, which contains a list of types of hazardous work prohibited to children under 18 years, has been approved by the Cabinet in May 2018 and is in the process of being incorporated into the Labour and Employment Relations Regulations. The Committee notes the Government's information that this list was reviewed by the National Occupational Safety and Health Task Force and supported by the Samoa National Tripartite Forum. The Government further indicates that the MCIL has included this list in its first National Occupational Safety and Health Framework 2018 to ensure that all stakeholders take ownership in monitoring and reporting of any activities that are in breach of this list. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the Hazardous Work List will be enacted and enforced, without delay. It requests the Government to provide information on any progress made in this regard. The Committee also requests the Government to provide information on any cases of hazardous work by children under 18 years that have been identified and reported through the National Occupational Safety and Health Framework.***

Article 7(2). Effective and time-bound measures. Clause (d). Reaching out to children at special risk. Children working as street vendors. In its previous comments, the Committee noted that section 20 of the Education Act 2009 specifically prohibits the engagement of compulsory school-aged children in street trading during school hours, and that it provides for the appointment of school attendance officers, responsible for identifying children who are out of school during school hours, and returning them to school. It also noted that the Community Sector Plan of 2016–21 (CSP) provides for a platform for the development of an intervention plan to respond to the needs of vulnerable children and their families. The Committee further noted that the majority of cases regarding child vendors in the streets were mainly dealt with by the Community Engagement Unit in collaboration with the Ministry of Education, Sports and Culture (MESC) and the Ministry of Women, Community and Social Development (MWCSO), whereby parents of the children involved in street vending were held responsible, after investigation, and then charged. However, the Committee noted that, according to the ILO Rapid Assessment Report on Children working on the streets in Apia, 2017, the majority of the 106 children interviewed started working on the streets due to the fact that the family needed income (page 36). Children, as young as 7 years of age, sold food, homemade juice and razor blades in dangerous environments, and worked long hours (over five to 12 hours a day), under harsh weather conditions, to sell their products. The majority of the children work for their own family and are not aware of the social support services available to them. Noting with concern that children continued to work as street vendors, often in hazardous conditions, the Committee requested the Government to take the necessary measures to identify and protect children engaged in street vending from the worst forms of child labour.

The Committee notes that at the Conference Committee, the Employer members expressed their concern about the prevalence of under 15-year olds exploited as street vendors. Moreover, the Worker members indicated that around 38 percent of child labour in Samoa was performed by under 15-year olds, which called into question the Government's capacity and commitment to address the worst forms of child labour.

In this regard, the Committee notes the following measures taken by the Government as indicated in its report: (i) a Child Vending Task Force (CVTF), comprised of representatives from the MESC, Ministry of Police (MoP), the MCIL and the Office of the Attorney General and the Council of Churches, was established within the MWCSO to address the issues pertaining to children working as street vendors; (ii) collaborative efforts were initiated by the MWCSO along with the MoP to monitor exploitation of children in the formal and informal economy, including through regular inspections in the streets of Apia and rural areas; (iii) awareness-raising programmes on the use of children in street vending were conducted by the Ministry of Commerce, Industry and Labour for employers in Upolu and Savaii, in order to prevent them from employing children under the age of 18 to sell goods and products during school hours; (iv) the Supporting Children initiative was started by the MWCSO in March 2016 for children from vulnerable families, in order to ensure their safety through positive parenting support and providing training and financial assistance to parents for income generating projects; and (v) the Small Business Youth Incubator for Economic Development which aims to instigate programmes for small businesses and income generating projects for youth, women and vulnerable families, were initiated. The Committee notes, however, that the Committee on the Rights of the Child, in its concluding observations of 12 July 2016, expressed its concern that children continue to work as vendors and that school absenteeism remains a challenge (CRC/C/WSM/CO/2-4, paragraph 52). ***While noting the measures taken by the Government, the Committee strongly encourages it to continue its efforts to identify and protect children engaged in street trading from the worst forms of child labour. It requests the Government to continue to provide information on the measures taken in this regard as well as information on the number of child street vendors who have been removed from the worst forms of child labour, including by the CVTF and through the collaborative efforts by the MWCSO and the MoP, and provided with assistance and socially integrated.***

The Committee is raising other matters in a request addressed directly to the Government.

Viet Nam

Minimum Age Convention, 1973 (No. 138) (ratification: 2003)

Article 9(1) of the Convention. Penalties, labour inspectorate and application of the Convention in practice. The Committee previously noted the Government's information that Decree No. 91/2011/ND-CP of 17 October 2011 provides for new penalties of fines for various cases of child labour, aimed at deterring the use of child labour in the country, including employing children in massage rooms, in casinos, bars, pubs or places that risk adversely affecting the development of the child, and employing children in certain illicit activities, such as the transport of illegal commodities. The Committee also noted the Government's information regarding the statistics on the employment of children and young persons, extracted from the reports of the labour inspection services for 2006–10. According to these statistics, in total 1,715 underage workers were detected during this period. The Government indicated that the number of children subjected to heavy labour and in hazardous and dangerous conditions, while decreasing, was as high as 68,000 in 2005 and 25,000 in 2010. The Committee further noted that according to the joint ILO, UNICEF and World Bank report on Understanding Children's Work (UCW) in Viet Nam of April 2009, an estimated 1.3 million children between the ages of 6 and 17 years were involved in child labour.

The Committee notes the Government's information that, in 2013, two decrees were issued to strengthen the sanctioning of administrative violations of child labour and juvenile labour, including cases of child labour abuse and using child for certain illicit activities. Moreover, section 296 of the Penal Code of 2015 provides for criminal liability for violations of the law on the employment of workers under 16 years of age, with sanctions of fines, community service and imprisonment of up to 10 years.

The Committee also notes the Government's information that, in 2012–14, with the support of the ILO, the Ministry of Labour, Invalids and Social Affairs (MOLISA) developed and distributed 1,000 sets of training materials on child labour, and organized two training courses on these materials in the provinces of Ninh Binh and Dong Nai. The labour inspectorate also undertook measures to mainstream child labour in their professional trainings. The Government indicates that, in 2015, the labour inspectorate carried out inspections on compliance with regulations on minor workers in 117 enterprises, involving 88,469 workers. No children under 15 years were found employed. Eighty-six minor workers aged 16–18 were found working mainly in the producing and tracing of apparels and seafood processing, 11 of which had not been documented for health examinations. No other violations regarding child labour were found.

However, the Committee notes that, according to the report of Vietnam National Child Labour Survey of 2012, around 1.75 million working children were categorized as "child labourers", accounting for 9.6 per cent of the national child population (5–17 years). Among children involved in child labour, 67 per cent worked in agriculture, 16.7 per cent worked in services and 15.7 worked in industry and construction. A significant number of working children operated in open-air workplaces that demanded great mobility and exposed children to activities with high accident risks, extreme temperatures and toxic environments which could inflict injuries and damage children's physical development. The Committee further notes that the Government is in the process of preparing the second National Survey on Child Labour.

The Committee takes due note of the Government's information regarding the measures taken, both in law and in practice, to combat child labour. However, it notes with **concern** that a significant number of children are engaged in child labour in Viet Nam, including in hazardous work and this number appears to be increasing. Moreover, the Committee observes that the results of the labour inspection activities do not reflect the magnitude of child labour in Viet Nam, as indicated in the report of Viet Nam National Child Labour Survey of 2012. ***The Committee therefore urges the Government to intensify its efforts to ensure the effective elimination of child labour. It also urges the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate in its action to prevent and combat child labour, in particular in the informal economy and to provide information on the measures taken in this regard. Lastly, the Committee requests the Government to continue to provide information on the manner in which the Convention is applied in practice, including statistics provided by the National Child Labour Survey on the employment of children under 15 years of age, extracts from the reports of the inspection services and court decisions, as well as information on the number and nature of the violations reported and the sanctions imposed.***

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Articles 3(b) and 7(2)(b) of the Convention. Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; effective and time-bound measures to provide assistance for the removal of children in the worst forms of child labour and for their rehabilitation and social integration. In its previous comments, the Committee noted the adoption of the Programme of Action to Combat Prostitution (PACP) for the period 2011–15. The Committee also noted that the Committee on the Rights of the Child (CRC) expressed its concern about the increasing number of children involved in commercial sexual activity, mainly due to poverty-related reasons. The CRC further expressed its concern that children who were sexually exploited were likely to be treated as criminals by the police, and that there was a lack of specific child-friendly reporting procedures. The Committee therefore urged the Government to intensify its efforts within the framework of the PACP to combat child prostitution, and to take effective

and time-bound measures to remove children under 18 years of age from prostitution and provide them with the appropriate assistance.

The Committee notes the Government's information in its report on the implementation of the PACP 2011–15, including the adoption of several decrees and circulars regarding the protection of victims of trafficking, as well as on the measures taken to strengthen the work of child protection and care services. However, the Committee notes that no concrete information on specific measures targeting child prostitution is provided in the Government's report. The Committee also notes that, pursuant to section 147 of the 2015 Criminal Code, only persuading, enticing and forcing a person under 16 years of age to participate in a pornographic performance constitutes an offence, which is punishable by imprisonment of up to 12 years. The Committee observes that the provisions of the 2015 Criminal Code do not appear to prohibit the use, procuring or offering of a child aged 16–18 for the production of pornography or for pornographic performances. The Committee reminds the Government that, by virtue of *Article 3(b)* of the Convention, the use, procuring or offering of a child under 18 years for the production of pornography or for pornographic performances, is considered as one of the worst forms of child labour, and that under the terms of *Article 1* of the Convention, immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour shall be taken as a matter of urgency. ***The Committee therefore urges the Government to take the necessary measures to ensure that the use, procuring or offering of a child under 18 years for the production of pornography or for pornographic performances is prohibited, and to provide information on any progress made in this regard. The Committee also requests the Government to provide information on the targeted measures undertaken to combat the commercial sexual exploitation of children under 18 years of age, as well as on the results achieved. The Committee further requests the Government to provide concrete information on the effective and time-bound measures taken to remove children from commercial sexual exploitation and to provide them with the appropriate assistance for their social integration through education, vocational training or jobs.***

The Committee is raising other matters in a request addressed directly to the Government.

Yemen

Minimum Age Convention, 1973 (No. 138) (ratification: 2000)

Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour and practical application of the Convention. In its previous comments, the Committee noted the information provided by the Government in its fourth periodic report to the Committee on the Rights of the Child (2012 report to the CRC), that the Government had been focusing on projects related to education, health, social affairs and youth with an emphasis on vital projects for children, including the National Poverty Reduction Strategy (2003–15) and the National Strategy for Children and Youth (2006–15) (CRC/C/YEM/4, paragraph 23). It also noted the Government's information in its 2012 report to the CRC that it was in the process of drafting a national action plan to combat child labour in cooperation with the ILO and the Centre for Lebanese Studies.

The Committee notes the Government's reference, in its report, to the continuing conflict and worsening economic and social situation of the country which is affecting children's education and future. It also notes the information that the Government, in cooperation with the ILO, employers, workers and civil society organizations have adopted a number of policies, measures and national plans to combat child labour. The Government report indicates that awareness-raising programmes on the risks of employing children under the minimum age are being implemented targeting employers, civil society organizations and local authorities; posters and banners against child labour are put up in public places; and inspections are carried out to places where children are employed, in particular in the informal sector. The Committee notes that according to the information from an ILO survey of 2013, more than 1.3 million children between the ages of 5 and 17 were involved in child labour. It further notes that the CRC, in its concluding observations of February 2014, expressed serious concern that an estimated 11 per cent of all child labourers are aged between 5 and 11 years, while 28 per cent are aged between 12 and 14 years (CRC/C/YEM/CO/4, paragraph 79). The Committee further notes from the Yemen Humanitarian Situation Report of March 2017 that more than 9.6 million children are affected by armed conflict in the country and the number of children displaced inside Yemen has reached over 1.6 million. While acknowledging the difficult situation prevailing in the country, the Committee must express its ***deep concern*** at the large number of children working below the minimum age for admission to employment or work. ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed conflict in the country, the Committee urges the Government to take immediate and effective measures to improve the situation of children in Yemen and to protect and prevent them from child labour, including through the adoption of the national action plan to combat child labour. It requests the Government to provide information on the measures taken in this regard and the results achieved. The Committee further requests the Government to provide information on the manner in which the Convention is applied in practice, including statistical data on the employment of children and young persons.***

Article 2(3). Compulsory education. The Committee previously noted the Government's information in its 2012 report to the CRC that it had adopted a number of policies and measures designed to expand basic education and enhance its effectiveness through the National Strategy for Basic Education (2003–15), the National Strategy for the Development of Secondary Education, the Strategy for Girls' Education and the Yemen Strategic Vision 2015. However, the Committee

noted from the UNESCO statistics of 2011, that the net enrolment rate (NER) in primary education was 76 per cent while the NER at the secondary-school level was 40 per cent.

The Committee notes the Government's information that it is seeking to expand and improve the quality of primary and secondary education and reach out to poorer demographic groups of the society. In this regard, the Committee notes the information that the Government, in cooperation with UNICEF, is implementing a four-year Global Partnership for Education programme covering 13 governorates, which have low rates of school enrolment, lack of infrastructure and high levels of poverty. It further notes the Government's statement that general education faces challenges and difficulties that are preventing any progress in this field, such as population dispersal, high rate of population growth and inadequate financial resources. The Committee notes from the report of the Global Partnership for Education in Yemen (GPE), 2017, that despite the ongoing conflict, many activities were implemented across the various GPE-supported programmes which contributed to the achievement of tangible results, including: (i) the rehabilitation of 89 schools; (ii) 83,565 students being provided psychological support; (iii) 420 targeted schools in 13 governorates having received development funds for the academic years 2015–16 and 2016–17; and (iv) 8,059 teachers being trained on active learning methods. The Committee notes, however, from the UNICEF report entitled *Falling through Cracks: The Children of Yemen* of March 2017 that the conflict in Yemen has destroyed and damaged more than 1,600 schools raising the already high number of out-of-school children, before conflict, to more than 2 million. While noting the measures taken by the Government, the Committee expresses its **deep concern** at the large number of children who are deprived of education because of the climate of insecurity prevailing in the country. **Considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to intensify its efforts to increase the school enrolment and attendance rates at the primary and secondary levels and to reduce school drop-out rates. It requests that the Government provide information on the measures taken in this regard and on the results achieved.**

Article 6. Minimum age for admission to apprenticeship. The Committee previously noted that the Labour Code as well as Ministerial Order No. 11 of 2013 (Ministerial Order No. 11) does not contain a minimum age for apprenticeships. It requested the Government to take the necessary measures to adopt provisions establishing the minimum age for apprenticeship in conformity with *Article 6* of the Convention.

The Committee notes the Government's information that the draft Labour Code sets a minimum age of 14 years for apprenticeship and that Ministerial Order No. 11 will be amended to set a minimum age of 14 years for apprenticeship. **The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the provisions under the draft Labour Code and Ministerial Order No. 11, which establish a minimum age of 14 years for apprenticeship will be adopted in the near future. It requests the Government to provide information on any progress made in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. Compulsory recruitment of children for armed conflict. In its previous comments, the Committee noted that the Government representative of Yemen, during the discussion at the Conference Committee on the Application of Standards in June 2014, acknowledged the serious situation of children in his country due to their involvement in armed conflict. The Committee also noted the Government's statement that it had signed an action plan in 2014 to end and prevent the recruitment of children by armed forces with the Special Representative of the United Nations Secretary-General for Children and Armed Conflict. This action plan sets out concrete steps to release all children associated with the government security forces, reintegrate them into their communities and prevent further recruitment. The Committee noted that the measures to be undertaken within this action plan included: (i) aligning domestic legislation with international norms and standards prohibiting the recruitment and use of children in armed conflict; (ii) issuing and disseminating military orders prohibiting the recruitment and use of children below the age of 18; (iii) investigating allegations of recruitment and use of children by Yemeni government forces and ensuring that responsible individuals are held accountable; and (iv) facilitating access to the United Nations to monitor progress and compliance with the action plan. The Committee noted that the Conference Committee, while noting the adoption of this action plan, expressed its serious concern at the situation of children under 18 years being recruited and forced to join government forces or the armed groups.

The Committee further noted from the Government's report that the Chief of General Staff of the Armed Forces and the Prime Minister have reiterated their commitment to implementing the measures agreed upon in the action plan so as to end the illegal recruitment of children by the armed forces. It noted, however, that according to the report of the United Nations Secretary-General to the Security Council of May 2014, the United Nations documented the recruitment of 106 boys between 6 and 17 years of age; the killing of 36 children; and the maiming of 154 children.

The Committee notes the Government's information, in its report, that in 2012, a Presidential Decree prohibiting the recruitment of children in the armed forces was adopted. It also notes the Government's statement that the action plan to put an end to the recruitment and use of children by the armed forces, which was concluded in 2014, has been hindered due to the worsening of the armed conflict since 2015. The Committee notes from the UNICEF report entitled *Falling through Cracks: The Children of Yemen*, March 2017, that at least 1,572 boys were recruited and used in the conflict, 1,546 children were killed and 2,458 children were maimed. The Committee also notes from the Report of the Ministry of

Human Rights, 2018, on the increasing number of conscripted children by the Houthi militias and their methods of mobilizing these children to fight on front lines. According to this report, the percentage of children recruited by the Houthi militia has increased tenfold since 2016. The number of child soldiers among this group has reached more than 15,000. The report further indicates that children recruited by this group are forced to use psychotropic substances and drugs, and are used in attempts to penetrate Saudi borders. They are also trained to use heavy weapons, to lay landmines and explosives and are also used as human shields. The Committee notes that the Committee on the Rights of the Child (CRC), in its concluding observations on the report submitted by the Government of Yemen under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, of February 2014, expressed serious concern about the presence of children within the armed forces; about the recruitment of children, including girls by the pro-Government tribal militias; and about the continuous recruitment and use of children in hostilities by the non-State armed groups (CRC/C/OPAC/YEM/CO/1, paragraphs 22, 24 and 27).

The Committee ***deeply deplores*** the use of children in armed conflict in Yemen, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. It recalls that, under *Article 3(a)* of the Convention, the forced or compulsory recruitment of children under 18 years of age for use in armed conflict is considered to be one of the worst forms of child labour and that, under *Article 1* of the Convention, member States must take immediate and effective measures to secure the elimination of the worst forms of child labour as a matter of urgency. ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee once again strongly urges the Government to take measures, using all available means, to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed forces and groups, including through the effective implementation of the national action plan to put an end to the recruitment and use of children in armed conflict, 2014. It once again urges the Government to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out, and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to provide information on the number of investigations conducted, prosecutions brought and convictions handed down against such persons.***

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. In its previous comments, the Committee had noted the information from the Government's fourth periodic report to the CRC of 2012, on the policies and implementation actions taken to reduce the gender gap in school enrolment and the positive results achieved. However, the Committee noted that according to the UNESCO Institute for Statistics, the net enrolment rates was low with 76 per cent (82 per cent boys and 69 per cent girls) in primary education and 40 per cent (48 per cent boys and 31 per cent girls) in secondary education. It also noted from the UNICEF Yemen Situation report of August 2013 that according to the findings of the Out of School Children Survey conducted by UNICEF in Al Dhale governorate, 78 per cent of the 4,553 children who dropped out of school were girls.

The Committee notes that the Government's report does not contain any information on this matter. The Committee notes that the CRC, in its concluding observations of February 2014, expressed its concern at: the significant disparities in the enrolment rates of girls to basic education among the governorates of the State party and the gender gap in school enrolment rates; the persistence of traditional attitudes and beliefs that girls should not be educated, in particular in rural areas; as well as child marriages and low number of female teachers which contribute to the high rates of girls dropping out of school (CRC/C/YEM/CO/4, paragraph 69). ***Considering that education is key in preventing children from being engaged in the worst forms of child labour, the Committee urges the Government to intensify its efforts to improve the functioning of the education system in the country and to facilitate access to free basic education for all children, especially girls, by increasing the school enrolment rates at the primary and secondary levels and by decreasing their drop-out rates. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. Children in armed conflict and hazardous work. The Committee previously noted that the Conference Committee, in its conclusions, strongly encouraged the Government to provide access to free basic education for all children, particularly children removed from armed conflict and children engaged in hazardous work, with special attention to the situation of girls. In this regard, the Conference Committee called on the ILO member States to provide assistance to the Government of Yemen and encouraged the Government to avail itself of ILO technical assistance in order to achieve tangible progress in the application of the Convention.

The Committee notes from the Report of the Ministry of Human Rights, 2018, that workshops and civil society campaigns on the rehabilitation of child soldiers are being carried out and rehabilitation centres were opened for children withdrawn from armed conflict. Hundreds of child soldiers recruited by militias have been released and provided with medical care. This report further indicates that the Government of Yemen, in cooperation with the Arab Coalition and the International Committee of the Red Cross and UNICEF, received 89 child soldiers who were recruited by the Houthi militia and deployed along the borders, out of which 39 children were rehabilitated and returned to their families. ***The Committee urges the Government to continue to take effective and time-bound measures to ensure that child soldiers***

removed from armed groups and forces as well as children removed from hazardous work receive adequate assistance for their rehabilitation and social integration including reintegration into the school system or vocational training, wherever possible and appropriate. It requests the Government to provide information on the measures taken in this regard and on the results achieved.

The Committee is raising other matters in a request addressed directly to the Government.

Zambia

Minimum Age Convention, 1973 (No. 138) (ratification: 1976)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 106th Session, June 2017)

The Committee notes the detailed discussion which took place at the 106th Session of the Conference Committee on the Application of Standards in June 2017, concerning the application by Zambia of the Convention.

Article 2(3) of the Convention. Age of completion of compulsory schooling. In its previous comments, the Committee noted that the Education Act of 2011 neither defined the school-going age nor indicated the age of completion of compulsory schooling. It also noted that according to section 34 of the Education Act of 2011, the Minister may, by statutory instrument, make regulations to provide for the basic school-going age and age for compulsory attendance at educational institutions.

The Committee notes the Government representative's indication to the Conference Committee that consultations were ongoing to revise the Education Act of 2011 which would define the basic school-going age and link it with the minimum age for employment in Zambia. It noted that the Conference Committee recommended the Government to take the necessary measures to ensure that the amended Education Act sets the age of completion of compulsory education at 15 years of age, and is effectively implemented in practice, without delay.

The Committee notes the Government's statement in its report that the official entry age for grade 1 in Zambia is 7 years and by the time of completion of grade 7, children are 14 or 15 years old. The Government further states that education is not compulsory, but once a child is enrolled in a school, it is the duty of every parent or guardian to ensure the child's regular attendance according to section 6(1) of the School (Compulsory Attendance) Regulations Statutory Instrument (SI) No. 118 of 1970. The Committee notes the Government's information that there has been a significant progress in the area of education during the last decade, following the implementation of various measures taken to improve access to basic education; such as the National policy on Education, Educating Our Future, 1996 which aims to provide every child access to nine years basic education by 2015; the Basic Education Sub-sector Investment Programme (BESSIP) 1999; the Technical Education and Vocational Entrepreneurship Training Plan (TEVET), 1996; the Education Sector Plan (2002–2007); the sixth National Development Plan (2011–15); the Education For All 2015; and the Free Basic Education Policy 2002. However, the Committee notes the Government's statement that despite 15 years of concerted action, access remains a huge challenge for children in Zambia. The Committee further notes the Government's information that the Ministry of Education is still in the process of reviewing the Education Act which has been delayed due to some technical challenges. ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee strongly urges the Government to take the necessary steps to ensure free and compulsory education for all children up to the minimum age of 15 years for admission to employment or work, including by legally setting 15 years as the age of completion of compulsory education during the revision of the Education Act. It also requests that the Government take the necessary measures to ensure the effective implementation of the Education Act, following its adoption.***

Article 7(3) of the Convention. Determination of light work. The Committee previously noted that the SI No. 121 of 2013 defines "light work" (which is permitted to children aged between 13 and 15 years as per section 4A(2) of the Employment of Young Persons and Children (Amendment) (EYPC Act of 2004) as work which is not likely: (a) to be harmful to the health or development of a child or young person; and (b) to prejudice the attendance at school, participation on vocational orientation, or a training programme approved by the competent authority, of a child or young person. It also noted that section 2 of the SI restricts the performance of light work activities to less than three hours per day. The Committee noted, however, that the Committee on the Rights of the Child, in its concluding observations of 14 March 2016, expressed concern that children aged 13 to 15 years undertook work which is reportedly not light work and that it interfered with their education (CRC/C/ZMB/CO/2-4, para. 57). The Committee notes that the Government's report does not contain any information on this point. ***The Committee therefore once again requests that the Government take the necessary measures to ensure that children of 13 to 15 years of age do not participate in work other than light work which does not interfere with their education. In this regard, the Committee requests the Government to indicate whether the light work activities have been determined pursuant to section 4A(2) of the EYPC Act of 2004 as required under Article 7(3) of the Convention.***

Labour inspectorate and application of the Convention in practice. The Committee previously noted that the inspections carried out by the labour inspectors identified the existence of hazardous child labour in small-scale mining, agriculture, domestic work, and trading sectors, generally in the informal economy. It also noted the Government's

information that a number of provinces had active programmes against child labour, including the activities by the District Child Labour Committees (DCLCs) to end child labour in tobacco growing communities by focusing on education as well as the results achieved following the implementation of the Achieving Reduction of Child Labour in Support of Education (ARISE) project. The Committee further noted that according to the findings of the Child Labour Report of 2012, an estimated 1,215,301 children were in child labour, registering an increase from 825,246 children in 2005.

The Committee notes that the Conference Committee recommended the Government to: strengthen its efforts to ensure the elimination of child labour both in the formal and informal sectors of the economy, including under hazardous conditions; and strengthen the capacity of the DCLCs and the labour inspectorate, in particular, in relation to small-scale mining, agriculture, domestic work and the informal economy.

The Committee notes the Government's information that there are twenty four registered DCLCs spread across the country which aims to monitor the implementation of child labour programmes at the district and community levels. In this regard, the Committee notes from the Government's report that: (i) the Chipata DCLC in the Eastern province provided training to 25 members including, the police, judiciary and other law enforcement officials, representatives from the Ministry of General Education, local government and other non-governmental organizations on identification of child labour and monitoring systems, mainly in the agricultural sector, occupational safety and health and child rights; and (ii) the Shiwangandu DCLC in the Muchinga province provided sensitization and awareness raising programmes at five local schools, which recorded absenteeism of pupils up to 60 per cent. The Committee also notes the Government's information that the ARISE programme which is currently functional in the eastern and western provinces, is supporting 41 schools in 17 communities in the Western provinces of Kaoma and Nkeyema. In this regard, the Committee notes from the ARISE Annual Review of 2017 that about 4,167 children were withdrawn from child labour and placed in schools; 8,166 community members and teachers were educated on child labour; 1,961 households were provided with improved livelihoods; and 797 Community Child Labour Committee (CCLC) members were trained in child labour monitoring, data collection and work plan formulation.

The Committee further notes the Government's information that the Ministry of Labour and Social Security (MLSS) serves as chair of the National Steering Committee on Child Labour which monitors and develops policies on child labor. The MLSS also provides technical expertise and coordinates all activities and programmes to eliminate child labour, including the activities of the DCLCs. Moreover, the Committee notes from the Government's report that more labour officers have been recruited to boost the inspectorate to enhance enforcement of child labour laws and new vehicles have been procured to enable the inspectors to carry out the inspections. The Government further indicates its intention to establish more DCLCs in other districts that are economically active in order to combat child labour and its worst forms. The Committee, however, notes the Government's statement that the MLSS conducts labour inspections in registered private institutions only and does not cover informal sectors where child labour is more prevalent. Moreover, the Committee notes the Government's information that of the 24 DCLCs, only those sponsored under the ARISE programme are currently active due to lack of financial resources. *While noting the measures taken by the Government, the Committee strongly encourages the Government to continue its efforts to ensure that children under the age of 15 years are not engaged in child labour in Zambia. In this regard, the Committee requests that the Government take the necessary measures to strengthen and expand the activities of the District Child Labour Committees to all the provinces as well as to strengthen the capacities of the labour inspectorate to enable it to monitor child labour in all sectors, including the informal economy. It requests the Government to continue to provide specific information on the measures taken in this regard, as well as on the results achieved. The Committee also requests the Government to provide updated statistical data on the employment of children and young persons, together with extracts from labour inspection reports.*

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 5 (Saint Lucia); Convention No. 6 (Madagascar); Convention No. 77 (Haiti); Convention No. 78 (Haiti); Convention No. 123 (Uganda); Convention No. 124 (Kyrgyzstan, Uganda, Viet Nam); Convention No. 138 (Armenia, Bahamas, Barbados, Belize, Benin, Plurinational State of Bolivia, Botswana, Brunei Darussalam, Burundi, Cabo Verde, Chad, Djibouti, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Haiti, Honduras, Indonesia, Iraq, Israel, Kazakhstan, Kenya, Kiribati, Republic of Korea, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Republic of Maldives, Mauritania, Mexico, Republic of Moldova, Morocco, Mozambique, Nepal, Netherlands: Aruba, Nicaragua, Niger, Nigeria, Papua New Guinea, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Solomon Islands, Viet Nam, Yemen, Zambia); Convention No. 182 (Armenia, Australia, Bahamas, Barbados, Belize, Benin, Botswana, Brazil, Brunei Darussalam, Burundi, Cabo Verde, Chad, Congo, Côte d'Ivoire, Croatia, Djibouti, Dominica, Ecuador, El Salvador, Equatorial Guinea, Ethiopia, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Indonesia, Islamic Republic of Iran, Iraq, Israel, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Republic of Korea, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Republic of Maldives, Mali, Mauritania, Republic of Moldova, Montenegro, Morocco, Mozambique, Myanmar, Nepal, Netherlands: Aruba,**

Nicaragua, Niger, Nigeria, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Solomon Islands, Somalia, Timor-Leste, Viet Nam, Yemen).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 59** (*Lebanon*); **Convention No. 123** (*Rwanda*); **Convention No. 138** (*Estonia, Georgia, Kuwait*); **Convention No. 182** (*Estonia, Georgia, Greece, Ireland, Kuwait*).

Equality of opportunity and treatment

General observation

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

General observation on discrimination based on race, colour and national extraction¹

On the occasion of the 60th anniversary of the adoption of the Convention, which to date has achieved almost universal ratification, and on the eve of the 100th anniversary of the ILO, the Committee wishes to recall that no society is free from discrimination and constant efforts are needed to take action against it. The elimination of discrimination and the promotion of equality of opportunity and treatment in employment and occupation, enshrined in the Convention, are among fundamental principles. The Philadelphia Declaration of 1944 declares that “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity”. The principles of equality and non-discrimination in employment and occupation are also enshrined in the 1998 Declaration on the Fundamental Principles and Rights at Work and the 2008 Declaration on Social Justice for a Fair Globalization. The Committee emphasizes that equality in the world of work can only be fully achieved within a general context of equality. In this regard, the Committee recalls that article 1 of the Universal Declaration of Human Rights, 1948, states that “all human beings are born free and equal in dignity and rights”, and notes that the Declaration is celebrating its 70th anniversary this year. The Committee stresses that effective application of these principles is crucial to the realization of social justice and lasting peace by ensuring that no one is left behind.

The Committee recalls that *Article 1(1)(a)* of the Convention defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity and treatment in employment and occupation. The Convention also covers any other grounds as may be determined by the Member concerned after consultation with representative employers’ and workers’ organizations, where such exist, and with other appropriate bodies (*Article 1(1)(b)*). While recognizing that discrimination based on all grounds falling within the scope of the Convention persists around the world, the Committee has decided to devote this observation to discrimination based on race, colour and national extraction.

The Committee recalls that in its 2012 General Survey on the fundamental Conventions, it reviewed the application of the Convention with respect to all prohibited grounds of discrimination and noted the progress being made in many countries in giving effect to its provisions. The Committee however also noted that, whereas discrimination on the grounds of race, colour and national extraction is generally prohibited in national legislation in most countries, far fewer countries have adopted proactive and comprehensive measures aimed at promoting substantive equality in respect of these grounds. This is despite long-standing international action against discrimination, including the adoption of the International Convention on the Elimination of All Forms of Racial Discrimination, in 1965, complemented by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance Declaration (Durban, 2001), the proclamation, in December 2014, by the United Nations General Assembly of the International Decade for People of African Descent (2015–24), and more recently the 2030 Agenda for Sustainable Development (2030 Agenda). In this regard, the Committee recalls that the 2030 Agenda recognizes that “rising inequalities within and among countries” is one of the major challenges confronting the world today. The Committee notes that inequalities disproportionately affect certain groups and members of those groups because of their race, colour or national extraction, which often intersects with other prohibited grounds of discrimination under *Article 1(1)(a)* of the Convention, such as social origin and religion, with compounding effects on women and girls.

The Committee recalls that under the Convention the term “race” includes any discrimination against linguistic communities or minority groups whose identity is based on religious or cultural characteristics or national or ethnic origin. In the context of the Convention, discrimination on the basis of race is generally examined together with discrimination based on colour, since “colour” is one of the ethnic characteristics that differentiate human beings. The Committee also recalls that national extraction covers distinctions made on the basis of a person’s place of birth, ancestry or foreign origin. In its examination of governments’ reports submitted under the Convention, the Committee has thus addressed discrimination in employment and occupation experienced by ethnic minorities, indigenous and tribal peoples, migrant workers, including migrant domestic workers, afro-descendants, national minorities and Roma people, among others, as an aspect of discrimination on the basis of race, colour and national extraction.

¹ This is not the first time that the Committee has formulated a general observation devoted to a particular ground of the Convention. In 2002, it adopted a general observation on a particular topic under the ground of sex, namely, sexual harassment (published in 2003). In the same vein, the Committee has also adopted two general observations under the Equal Remuneration Convention, 1951 (No. 100): the first one in 1998 in order to provide specific guidance on the type of statistics, disaggregated by sex, which the Committee needs in order to assess the progress in the implementation of the Convention; and the second one in 2006 in order to underscore the importance and clarify the meaning of “work of equal value”.

The Committee has noted that given the persisting patterns of discrimination on the grounds of race, colour and national extraction, in most cases there is a need for comprehensive legislation containing explicit provisions defining and prohibiting discrimination in all aspects of employment and occupation, in order to ensure full application of the Convention. These definitions should include direct and indirect discrimination, and discrimination-based harassment as a serious form of discrimination, in particular racial harassment. Racial harassment occurs where a person is subject to physical, verbal or non-verbal conduct or other conduct based on race which undermines their dignity or which creates an intimidating, hostile or humiliating working environment for the recipient. Moreover, the intersection of factors such as race, religion, gender or disability increases the risk of harassment, particularly in respect of young women from an ethnic or racial minority.

The Committee also notes that the underlying causes of discrimination and de facto inequalities, resulting from deeply entrenched discrimination and long-standing social exclusion, cannot effectively be addressed without proactive measures. The Committee has considered that in many cases special measures of the type outlined in *Article 5* of the Convention are needed to remedy the effects of past and present discriminatory practices and to promote equal opportunities for all. Noting that forms of discrimination based on race, colour and national extraction often interact with other prohibited grounds of discrimination, including for example, religion, social origin and sex, the Committee has drawn the governments' attention to the need to take into consideration and address the effects of multiple forms of discrimination in employment and occupation. The Committee has also recalled that universal education, compulsory and free of charge to the same level for everyone, is one of the basic starting points for a national equality policy required under *Articles 2* and *3* to promote equality of opportunity and treatment in employment and occupation.

The Committee has welcomed the adoption of legislation to redress past or present discrimination by an increasing number of countries. That legislation imposes a duty both to prevent and combat discrimination and to promote equality of opportunity and treatment in employment and occupation, because this form of legislation may prove to be most effective in addressing discrimination on the grounds of race, colour and national extraction. The Committee has been pleased to note the efforts deployed in many countries to tackle discrimination and promote equality of opportunity and treatment, irrespective of race, colour and national extraction, by various concrete measures including: (i) targets and quotas in education, vocational training and employment; (ii) special employment promotion programmes; (iii) action plans targeting specific ethnic groups; and (iv) the establishment of specialized bodies with varying mandates, ranging from awareness-raising and promotional functions to dealing with discrimination complaints and formulating policy recommendations.

In spite of all these efforts, the Committee notes with **regret** that the impact of the measures taken remains uncertain in most cases, particularly in the absence of regular monitoring and periodic evaluations. In only a few cases have specific studies been undertaken with a view to examining the situation in employment and occupation of persons belonging to specific ethnic groups and establishing a baseline from which governments, social partners and other stakeholders are able to assess the real impact of such measures periodically. This adds to the lack of collection and publication of employment statistics disaggregated by ethnic origin in many countries, due to either the lack of technical capacity or the absence of legislation and procedures that allow for such collection. The Committee emphasizes that data and qualitative research on the nature and extent of labour inequalities, including its underlying causes, are crucial to determine the nature, extent and causes of discrimination, design and implement a relevant and effective national equality policy under *Articles 2* and *3* of the Convention, and monitor and evaluate its results. It recalls that *Article 3(f)* requires governments to report on the action taken in pursuance of the national equality policy and the results secured by such action. In this connection, the Committee has systematically requested that governments regularly assess the impact of such policies, in order to review and adjust existing measures and strategies on a continuing basis. The Committee also wishes to stress the importance of consulting with the social partners and the interested groups on the design, monitoring, implementation and evaluation of the measures and plans adopted with a view to ensuring their relevance, raising awareness about their existence, promoting their wider acceptance and ownership and enhancing their effectiveness.

The Committee notes with **concern** that discriminatory attitudes and stereotypes based on the race, colour or national extraction of men and women workers continue to hinder their participation in education, vocational training programmes and access to a wider range of employment opportunities, resulting in persisting occupational segregation and lower remuneration received for work of equal value. These factors also frequently drive many persons from these groups into jobs in the informal economy. The Committee also notes that employment quotas, where they exist, remain frequently unfilled, reportedly often due to the lack of skilled persons from the designated groups or because of insufficient efforts to recruit actively the persons targeted. The Committee thus considers that it is necessary to adopt a comprehensive and coordinated approach to tackling the obstacles and barriers faced by persons in employment and occupation because of their race, colour or national extraction, and to promote equality of opportunity and treatment for all. Such an approach should include the adoption of interlocking measures aimed at addressing gaps in education, training and skills, providing unbiased vocational guidance, recognizing and validating the qualifications obtained abroad, and valuing and recognizing traditional knowledge and skills that may be relevant both to accessing and advancing in employment and to engaging in an occupation. The Committee also recalls that, in order to be effective, these measures must include concrete steps, such as laws, policies, programmes, mechanisms and participatory processes, remedies designed to address prejudices and stereotypes and to promote mutual understanding and tolerance among all sections of the population.

The Committee emphasizes the importance of ensuring coordination and complementarity between the interlocking measures and strategies adopted, and between the various competent bodies with a view to ensuring coherence and enhancing impact, while avoiding duplication of efforts and promoting the optimal use of resources. The Committee also considers that it is important to mainstream the promotion of equality of opportunity and treatment in employment and occupation in relevant national policies, such as education and training policies, employment policies, poverty reduction strategies, rural or local development programmes, women's economic empowerment programmes, and climate mitigation and adaptation strategies.

The Committee further notes that some workers face challenges in seeking to engage in the occupation of their choice because of discrimination, in law and practice, based directly or indirectly on race, colour and national extraction. For example, unsecure land tenure and biased approaches towards the traditional occupations engaged in by certain ethnic groups, which are often perceived as outdated, unproductive or environmentally harmful, continue to pose serious challenges to the enjoyment of equality of opportunity and treatment in respect of occupation for many persons. In this regard, the Committee wishes to emphasize that promoting and ensuring access to material goods and services required to carry out an occupation, such as secure access to land, and access to credit and resources, without discrimination, should be part of the objectives of a national policy on equality. Any discriminatory law and practice affecting access to and performance of an occupation, contrary to the equality policy, must be repealed in accordance with *Article 3* of the Convention.

The Committee recalls the important role that employers' and workers' organizations play in promoting understanding, acceptance and realization of the principles of the Convention which set out broad requirements of active cooperation with employers' and workers' organizations with respect to the effective implementation of the national equality policy required under the Convention. The Committee also underlines the importance of collective agreements in applying the national equality policy and advancing equality of opportunity and treatment for all workers, irrespective of race, colour or national extraction.

The Committee, furthermore, notes that significant barriers remain in many countries that impede access to justice for those discriminated against on the basis of race, colour and national extraction, among other grounds, including physical, financial and linguistic obstacles. The Committee thus invites governments to establish accessible dispute resolution mechanisms, where they do not yet exist, and to ensure that the applicable burden and standard of proof do not impede access to justice for victims. In this respect, the Committee recalls that it has noted with interest that in some countries, once the complainant has produced plausible or prima facie evidence of discrimination, the burden of proof shifts to the employer. The Committee further encourages governments to explore avenues towards expanding the accessibility of existing mechanisms, including by amending the rules on legal standing to include civil society organizations, equality bodies, workers' and employers' organizations, and other representative institutions, and to raise public awareness of the relevant legislation and remedies available. The Committee also recalls that sanctions imposed must be effective, proportionate and dissuasive, and effective protection from retaliation must be ensured to the victims of discrimination who lodge complaints or bring cases before the competent authorities, and to witnesses. Further, the Committee considers that addressing discrimination based on race, colour and national extraction through criminal proceedings only, is normally not sufficient – due to the sensitivity of the issue, the standard of proof which is harder to meet, and the fact that criminal law does not address the full range of behaviour that constitute this type of discrimination – and invites governments to ensure that civil remedies are available.

In light of the above, the Committee encourages governments, in cooperation with workers' and employers' organizations and other interested bodies, to strengthen their efforts in the following areas and to provide information in future reports on the measures adopted or envisaged in this respect:

- (i) assessing the situation in employment and occupation of all ethnic groups in their countries and the discrimination faced by them, through dedicated studies, surveys and disaggregated data gathering, respectful of confidentiality, through informed consent and voluntary self-identification, in order to inform the formulation and evaluation of appropriate measures, taking into account the effects of multiple forms of discrimination;
- (ii) consulting, with the social partners and, wherever possible, with interested groups on the design, implementation, monitoring and evaluation of the measures and plans adopted under the national equality policy;
- (iii) adopting proactive and comprehensive measures to promote the substantive equality of all persons and redress discrimination based on race, colour and national extraction including in its multiple forms;
- (iv) ensuring that appropriate measures to promote equality of opportunity and treatment irrespective of race, colour and national extraction in respect of non-waged work are also included in the national equality policy which take into account the compounding effects of discrimination on women, especially as regards access to land, credit and other productive resources;
- (v) regularly monitoring and assessing the results achieved within the framework of the national equality policy with a view to reviewing and adjusting existing measures and strategies and identifying any need for greater coordination between measures and strategies and between competent bodies in order to streamline interventions;
- (vi) undertaking awareness-raising and educational programmes to combat prejudices and stereotypes based on race, colour and national extraction, including developing specific programmes to be used in schools;

- (vii) enhancing the capacity of enforcement authorities, including labour inspectors, tribunals and other competent bodies, as well as workers' and employers' organizations, migration authorities, job placement entities, and other relevant actors to identify, prevent and address cases of discrimination; and
- (viii) ensuring that the enforcement and remedies available in respect of discrimination based on race, colour and national extraction in employment and occupation are primarily effected through civil law rather than criminal law.

Noting that several countries still retain legal provisions that do not specifically prohibit discrimination on the grounds of race, colour or national extraction, the Committee recalls that it has consistently indicated that, where legal provisions are adopted to give effect to the principle of the Convention, they should include at least all of the grounds of discrimination specified in *Article 1(1)(a)* of the Convention, as well as a clear definition of discrimination, and it therefore urges the governments of those countries to take the necessary steps to amend their legislation with a view to including them.

Finally, the Committee recalls that governments can avail themselves of the technical assistance of the ILO regarding these matters.

Afghanistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

Articles 1 and 2 of the Convention. Equal remuneration for work of equal value. Legislation. The Committee previously noted that while some of the provisions of the Labour Law (namely sections 8, 9(1), 59(4) and 93) read together provided some protection against discrimination based on sex with respect to remuneration, they did not reflect fully the principle of the Convention. The Committee takes note of the Government's indication, in its report, that the Tripartite Consultative Committee is still engaged in the revision process of the Labour Law with a view to ensuring greater conformity with the provisions of the Convention. The Committee wishes to point out that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value as it permits a broad scope of comparison, including, but going beyond equal remuneration for "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 673). ***The Committee requests the Government to continue to provide information on the activities and recommendations of the Tripartite Consultative Committee concerning the revision of the Labour Law, and trusts that in the near future its national legislation will explicitly give full legislative expression and effect to the principle of equal remuneration for men and women for work of equal value set out in the Convention.***

Gender pay gap. The Committee welcomes the statistics provided by the Government and notes that, according to the Afghanistan Living Conditions Survey (ALCS) for 2013–14, women's average monthly wages were lower than those of men in all job categories, except in the public sector. Men were earning on average 30 per cent more than women in the same occupation and up to three and a half times more than women in the agriculture and forestry sector, where women represented two-thirds of the workforce. The Committee notes that, according to the ALCS for 2016–17, the situation of women has deteriorated as the labour force participation rate of women decreased from 29 per cent in 2014 to 26.8 per cent in 2017, and remained far lower than the labour force participation of men (80.6 per cent in 2017). Moreover, more women than men were in a vulnerable employment situation (89.9 per cent of women compared to 77.5 per cent of men). The Committee *regrets* that the ALCS for 2016–17 does not contain any more information on the gender pay gap. ***The Committee requests the Government to provide information on the measures taken to reduce the gender pay gap and identify and address its underlying causes, as well as on the results achieved in this regard. Recalling the importance of the regular collection of statistics in order to undertake an assessment of the nature, extent and evolution of the gender pay gap, the Committee requests the Government to provide updated information on the earnings of men and women disaggregated by economic activity and occupation, both in the private and public sectors, as well as any available statistics or analysis on the gender pay gap.***

Article 3. Objective appraisal of jobs. Civil service. Referring to its previous comments, the Committee takes note of the salary scale annexed to the Civil Servants Law, 2008, according to which salaries are determined by reference to grades and steps. It notes that section 8 of the Law refers to the criteria used to determine employment grades according to diploma, skills and work experience. The Committee notes from the data of the national Central Statistics Organization that in 2016 women represented 22.5 per cent of all public sector employees, but only 7.5 per cent of those were placed in the third grade or higher position. ***The Committee requests the Government to provide information on the practical application of section 8 of the Civil Servants Law, 2008, including on the methods and factors used to classify jobs under the different grades in order to ensure that tasks mainly performed by women are not being undervalued in comparison to the tasks traditionally performed by men. The Committee further requests the Government to provide information on the distribution of men and women in the various categories and positions of the civil service with their corresponding levels of earnings.***

Article 4. Awareness-raising activities. Cooperation with employers' and workers' organizations. The Committee notes the Government's indication that public information campaigns and activities to raise awareness about the principle of the Convention, particularly among employers' and workers' organizations, have been continued, some of

which with the assistance of the ILO. *The Committee requests the Government to continue to provide information on awareness-raising activities carried out to promote the principle of the Convention, and to indicate whether any cooperation or joint activities have been undertaken together with the employers' and workers' organizations. The Committee also requests the Government to specify whether, as a result of the awareness-raising activities already implemented, the principle of the Convention has been effectively addressed by the social partners in collective agreements and, if so, to provide information in this respect, including copies of the relevant provisions.*

Enforcement. The Committee notes that, in the National Labour Policy for 2017–20, the Government recognizes laxity in the enforcement of labour-related legislation and indicates that periodic inspections will be conducted to reveal quality of compliance, as well as gaps in compliance for which appropriate actions would be taken against defaulting employers. The Committee further notes that, in its last concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the fact that decisions of informal justice mechanisms are discriminatory against women and undermine the implementation of existing legislation, and recommended that women's accessibility to the formal justice system be enhanced (CEDAW/C/AFG/CO/1-2, 30 July 2013, paragraphs 14 and 15). *The Committee requests the Government to provide information as to the steps taken to ensure stricter enforcement of labour legislation as regards the application of the Convention. In particular, the Committee requests information regarding compliance with the requirements of the Convention, including the level of compliance and the identification of gaps in compliance, as well as any actions taken against defaulting employers. The Committee further requests the Government to provide information on any measures taken or envisaged to enhance women's accessibility to the formal justice system, as well as on any complaints made with regard to the principle of the Convention dealt with by the courts or any other competent authorities, including information on sanctions and remedies provided.*

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1969)

Articles 1 and 2 of the Convention. Legislation. The Committee previously noted that the prohibition of discrimination in section 9 of the Labour Law is very general and urged the Government to take the opportunity of the Labour Law reform process, in the context of the Decent Work Country Programme and the National Action Plan for Women of Afghanistan (NAPWA) 2007–17, to amend its legislation to explicitly prohibit direct and indirect discrimination covering all the grounds listed in *Article 1(1)(a)* of the Convention, as well as any other grounds determined in consultation with employers' and workers' organizations, in accordance with *Article 1(1)(b)* of the Convention. The Committee notes the Government's indication, in its reports, that the Tripartite Consultative Committee is still engaged in the revision process of the Labour Law. Referring to its previous comments on section 10(2) of the Civil Servants Law, 2008, which only prohibits discrimination in recruitment based on the grounds of sex, ethnicity, religion, disability and "physical deformity", the Committee notes the Government's general statement that provisions of the Labour Law are also applicable to civil servants. *The Committee requests the Government to continue to provide information on the activities and recommendations of the Tripartite Consultative Committee concerning the revision of the Labour Law, and trusts that in a near future its national legislation will explicitly prohibit, both in the private and public sectors, direct and indirect discrimination covering all the grounds listed in Article 1(1)(a) of the Convention, as well as any other grounds determined in consultation with employers' and workers' organizations, in accordance with Article 1(1)(b) of the Convention, covering all aspects of employment and occupation. In the meantime, the Committee requests the Government to clarify the relationship between section 9 of the Labour Law and section 10(2) of the Civil Servants Law and, more generally, to indicate whether all the provisions of the Labour Law shall apply to civil servants or whether this is limited to provisions of the Labour Law which are expressly referred to by the Civil Servants Law.*

Article 1(1)(a). Discrimination on the ground of sex. Work-related violence and sexual harassment. The Committee takes note of the Law on the Prohibition of Harassment against Women and Children, adopted in December 2016 and approved by the President on April 2018, which defines and criminalizes physical, verbal and non-verbal harassment, and provides that harassment is punishable with a fine. On the other hand, it notes that section 30 of the Law on the Elimination of Violence against Women (EVAW), 2009, which provides that harassment is punishable by up to six months of imprisonment, was firstly incorporated into the revised Penal Code in March 2017 and then removed on the instruction of the Government in August 2017, as a result of pressure exerted by some members of the Parliament, which left the status of the EVAW Law in a state of uncertainty. The Committee also notes that several United Nations (UN) bodies expressed concern at the escalating level of targeted attacks, including killings, against high profile women, particularly those in the public sector, as well as at the prevalence of sexual harassment against women in the workplace (Report of the UN High Commissioner for Human Rights, A/HRC/37/45, 21 February 2018, paragraph 55 and Report of the UN Special Rapporteur on violence against women, its causes and consequences, A/HRC/29/27/Add.3, 12 May 2015, paragraphs 21 and 26). It notes that, according to a survey carried out in 2015 by the Women and Children's Legal Research Foundation, based in Afghanistan, 87 per cent of the women interviewed experienced harassment in the workplace. It further notes that the Afghanistan Independent Human Rights Commission (AIHRC) recently indicated that women police officers are particularly affected and that the Ministry of the Interior is currently finalizing an internal complaints mechanism to this end (Report of the UN High Commissioner for Human Rights, A/HRC/37/45, 21 February 2018, paragraph 53). The Committee notes that, pursuant to the 2015 Regulations on the Elimination of Harassment

Against Women (11/07/1394), commissions aimed at addressing complaints have been established in several provinces, but that the UN High Commissioner for Human Rights recently highlighted that the mechanisms to combat sexual harassment against women in the workplace remained largely ineffective owing to underreporting, which is mainly due to the social stigma attached to the issue (Report of the UN High Commissioner for Human Rights, A/HRC/37/45, 21 February 2018, paragraph 54). ***The Committee requests the Government to provide information on any concrete measures (such as, for example, campaigns addressed to the general public to promote gender equality) and specific programmes taken or envisaged to combat violence against women (and more particularly high-profile women), and sexual harassment at the workplace, both in the private and public sectors, including any social stigma attached to this issue. It further requests the Government to provide information on the number, nature and outcome of any complaints or cases of work-related violence or sexual harassment in the workplace handled by the commissions established under the 2015 Regulations, the labour inspectorate and the courts. The Committee also requests the Government to clarify the relationship between the Law on the Elimination of Violence against Women, 2009, and the Law on the Prohibition of Harassment against Women and Children, 2016, as well as the current status of both legislations. Please provide a copy of the Law on the Prohibition of Harassment against Women and Children, 2016, and of the 2015 Regulations on the Elimination of Harassment Against Women (11/07/1394).***

Article 2. Equal access of men and women to vocational training and education. The Committee notes the Government's indication that girls represent 45 per cent of total school enrollment. Referring to the discussion held at the Conference Committee on the Application of Standards at its 106th Session (June 2017) on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), the Committee notes that non-state groups deliberately restricted the access of girls to education, including attacks and closure of girls' schools, and that 35 schools were used for military purposes in 2015. It further notes the low enrollment rate of girls, in particular at the secondary school level, high dropout rates especially in rural areas owing to a lack of security in the journey to and from school, and the written threats warning girls to stop going to school by non-state armed groups. The Committee notes that, in the Afghanistan Living Conditions Survey (ALCS) for 2016–17, the Central Statistics Organization indicates that, in 2016, girls' access to primary education was in decline, and female gross attendance rates in primary, secondary and tertiary education represented only 0.71, 0.51 and 0.39 per cent of the corresponding male rates, respectively. Furthermore, it is estimated that only 37 per cent of adolescent girls are literate, compared to 66 per cent of adolescent boys and that 19 per cent of adult women are literate compared to 49 per cent of adult men. ***While acknowledging the difficult situation prevailing in the country, the Committee requests the Government to step up its efforts to encourage girls' and women's access and completion of education at all levels, and to enhance their participation in a wide range of training programmes, including those in which men have traditionally predominated. It requests the Government to provide updated statistics disaggregated by sex, on participation and completion rates of the different levels of education, as well as in the various vocational training programmes. The Committee again requests the Government to provide information on any measures taken as a result of the affirmative action policy in education envisaged by the NAPWA 2007–17.***

Article 5(1). Special measures of protection. Work prohibited for women. The Committee previously noted that the list of physically arduous or harmful work prohibited for women to be established under section 120 of the Labour Law was still under preparation. ***Noting the absence of updated information provided by the Government in that respect, the Committee again urges the Government to ensure that, in the process of the Labour Law reform, any restrictions on the work that can be done by women are strictly limited to maternity protection and are not based on stereotyped assumptions regarding their capacity and role in society that would be contrary to the Convention. It requests the Government to provide a copy of the list of work that is prohibited for women, once adopted.***

The Committee is raising other matters in a request addressed directly to the Government.

Albania

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1997)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Article 1 of the Convention. Prohibited grounds of discrimination. Legislative developments. The Committee notes with ***interest*** the adoption of Law No. 136/2015 which came into force in June 2016 and introduces amendments to the Labour Code. The Committee notes that section 9(2) prohibits discrimination in employment and occupation on a wide range of grounds that are already covered by section 1 of the Protection from Discrimination Law No. 10221 of 2010, and adds the grounds of disability, HIV/AIDS or union affiliation. The prohibition of discrimination covers access to employment, access to vocational training, and working conditions including termination of employment and remuneration (section 9(5)). In case of violations of section 9, the Committee notes that under new section 9(10), the burden of proof shifts to the employer once the plaintiff submits evidence upon the basis of which the court may presume discriminatory behaviour. The Committee further notes that new section 32(2) now defines and prohibits both quid pro quo and hostile environment sexual harassment. ***The Committee requests the Government to provide information on the application in practice of section 9 of the Labour Code, including on any activities carried out in order to raise awareness of workers, employers and their organizations, as well as of labour inspectors and judges on the new provisions of the Labour Code protecting workers from discrimination in employment and occupation.***

Discrimination on the basis of political opinion. The Committee recalls that for a number of years, it has been expressing concern regarding the potentially discriminatory effect of “lustration” laws (Law No. 8043 of 30 November 1995 and afterwards Law No. 10034 of 22 December 2008) which provided for the exclusion of persons who had certain duties under the previous regime from serving in a broad range of public functions. The Committee also recalls that according to an amicus curiae opinion of the Venice Commission of the Council of Europe, aspects of the new “lustration” Law No. 10034 of 2008 were found to interfere disproportionately with the right to stand for election, the right to work and the right to access to public administration. The Committee notes with *interest* the Government’s indication in its report that by Decision No. 9, dated 2 March 2010, the Constitutional Court of the Republic of Albania unanimously decided that the “lustration” Law No. 10034 of 2008 was unconstitutional and consequently without effect.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Angola

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1976)

Legislation. The Committee refers to its previous comments, in which it asked the Government to take the opportunity provided by the revision of the General Labour Act to address the specific issues raised by the Committee since 2013 concerning, in particular, the definition and grounds of discrimination, the prohibition of sexual harassment, the restrictions on women’s access to work, and the coverage of the measures for workers with family responsibilities provided for in the Act. The Committee notes with *regret* that the new General Labour Act (Act No. 7/015), which was adopted on 21 April 2015, addresses none of the matters raised by the Committee. *Recalling the importance of a clear and comprehensive legislative framework in order to ensure the effective implementation of the Convention, the Committee asks the Government to take the necessary steps to address the matters raised by the Committee with a view to bringing the General Labour Act fully into conformity with the Convention, and to provide information on any developments in this regard.*

The Committee is raising other matters in a request addressed directly to the Government.

Antigua and Barbuda

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2003)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Article 1(a) and (b) of the Convention. Work of equal value. The Committee previously noted that section E8(1) of the Labour Code of 1975, which provides that “no woman shall, merely by reason of her sex, be employed under terms or conditions of employment less favourable than that enjoyed by male workers employed in the same occupation and by the same employer”, did not give full legislative expression to the principle of the Convention. The Committee merely recalls that prohibiting sex-based wage discrimination will not normally be sufficient to give effect to the Convention, as it does not capture the concept of “work of equal value” set out in *Article 1(b)* of the Convention (see 2012 General Survey on the fundamental Conventions, paragraph 676). It also recalls the importance of giving full legislative expression to the principle of equal remuneration for men and women for work of equal value, particularly given the existence of occupational sex segregation, as women and men often work in different occupations (see 2012 General Survey, paragraphs 673 and 697). In this regard, the Committee takes due note of the Government’s indication that the National Labour Board has reviewed the Labour Code and that a report has been submitted to the relevant authority for necessary action. *The Committee trusts that the revised text of the Labour Code will clearly set out the principle of equal remuneration for men and women for work of equal value – which should not only provide for equal remuneration for men and women working in the same occupations, but also for equal remuneration for work carried out by men and women that is different in nature but nevertheless of equal value – and will ensure that the principle of the Convention can be applied even where there is no sufficient comparator group employed by the employer. It requests the Government to report on the progress made.*

Remuneration. The Committee recalls its previous comments regarding the use and definitions of the terms “wages”, “gross wages”, “remuneration” and “conditions of work” referred to in sections A5, C3, C4(1) and E8(1) of the Labour Code. The Committee had noted that the definition of “gross wage” appeared to be in accordance with the definition of remuneration set out in *Article 1(a)* of the Convention, but that it remained unclear whether section C4(1) prohibiting sex discrimination with respect to wages covered the gross wage. While noting the Government’s indication that the terms “wages”, “gross wages”, and “remuneration” were used interchangeably in practice, the Committee noted that these various terms were often understood to have distinct meanings, thus potentially giving rise to confusion. *Noting the review of the Labour Code, the Committee requests the Government to ensure that the revised text will harmonize the provisions of the Labour Code relevant to wages and remuneration, and include a clear definition of “remuneration” which covers not only the ordinary, basic or minimum wage or salary but also any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment, in accordance with Article 1(a) of the Convention. The Committee requests the Government to report on the progress made in this regard.*

The Committee is raising other matters in a request directly addressed to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1983)***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Article 1(1)(a) of the Convention. Grounds of discrimination – National extraction and social origin. For a number of years, the Committee has been noting the absence of an explicit prohibition of discrimination in the national Constitution (article 14(3)) or the Labour Code (section C4(1)) on the basis of national extraction and social origin. In its 2012 report, the Government indicated that, when the new Labour Code would be published, national extraction and social origin would be included to give full effect to the Convention. The Committee notes with *regret* the persistent lack of information in the Government's latest report on the concrete steps taken to ensure and promote protection of workers against discrimination with respect to these grounds in law or in practice. The Committee recalls that even as the relevance of each of the grounds enumerated in the Convention may be different for each country, new forms of discrimination may emerge over time due to labour market and societal changes, and need to be addressed. Further, where provisions are adopted in order to give effect to the principle of the Convention, they should at least include all the grounds of discrimination laid down in *Article 1(1)(a)* (2012 General Survey on the fundamental Conventions, paragraph 853). *The Committee requests the Government to ensure that workers are protected in law and in practice, against direct and indirect discrimination on the basis of national extraction and social origin, in all aspects of employment and occupation, and to monitor emerging forms of discrimination that may result or lead to discrimination in employment and occupation on the basis of these grounds, and to report in detail on the progress made. Noting the Government's indication that the National Labour Board has reviewed the Labour Code and submitted a report to the relevant authority for the necessary action to be taken, the Committee hopes that the revised text of the Labour Code will include specific provisions defining and prohibiting direct and indirect discrimination, in all aspects of employment and occupation, and with respect to all the grounds of discrimination set out in the Convention, namely race, colour, sex, religion, political opinion, national extraction and social origin, and requests it to provide information on the progress made.*

Article 2. Equality between men and women. Access to employment, vocational training and education. The Committee notes that the Government continues to provide very general information relating to its national policy to promote and ensure equality of opportunity and treatment of men and women with respect to access to employment, education and vocational training. *With a view to enabling the Committee to assess in an effective way the progress made in ensuring equality of opportunity and treatment between men and women, the Committee urges the Government to take concrete steps to collect, analyse, and provide statistical information, disaggregated by sex, on the participation of men and women in education at all stages and various vocational training courses offered, as well as statistics on the number of men and women that have filled vacancies following such training, including for jobs traditionally held by the other sex. The Committee also urges the Government to provide detailed information on recent initiatives taken or envisaged to promote women's participation in courses and jobs traditionally held by men, including up to date information on the courses offered by the Gender Affairs Department and the Ministry of Education, as well as the Institute of Continuing Education.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Argentina

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1968)***

The Committee notes the observations of the General Confederation of Labour of the Argentine Republic (CGT RA), received on 31 August 2018, in which the CGT RA: notes the need for a national public policy covering all the grounds of discrimination set out in the Convention; refers to the working conditions of migrant workers, particularly women migrants engaged in domestic service and the textile sector; hopes to receive further information on the employment programmes implemented by the Ministry of Labour, Employment and Social Security (MTEySS) in order to monitor those programmes with a view to ensuring that there is no discrimination against, for example, the migrant population and indigenous peoples; and notes the possibility of improving the legislation in force applicable to migrant workers in an irregular situation.

The Committee also notes the observations of the Confederation of Workers of Argentina (CTA Autonomous), received on 1 September 2018, indicating that: (i) although the right to not suffer discrimination and receive equal treatment is enshrined in the national legal system, practice shows that this is not sufficient and, consequently, adequate supervisory measures and mechanisms are needed to ensure effective compliance with legislation and guarantee the right to equality of persons with disabilities, women and the most vulnerable groups, in particular with respect to access to employment and more senior posts, and equal remuneration; (ii) affirmative action measures are needed to guarantee the genuine enjoyment of rights; (iii) the austerity measures adopted by the Government have directly and indirectly affected workers with disabilities, 90 per cent of whom are unemployed, and there is a lack of vocational training and the necessary support to allow persons with disabilities to enter the labour market; and (iv) gender equality has not been achieved in enterprises and the country's gender equity model should cover areas such as employee selection, promotion and training, vocational development, the reconciliation of work and family life, sexual harassment and the working environment.

The Committee also notes the observations of the Confederation of Workers of Argentina (CTA Workers), received on 11 September 2018.

The Committee requests the Government to provide its comments on the observations made by the trade unions.

Legislation. The Committee notes that the Government refers in its report to the draft Gender Equality Bill (INLEG-2018-10434057-APN-PTE), which was submitted to Congress in March 2018. The Committee notes that this Bill is designed to amend the Employment Contracts Act and, more specifically, sections 172, 173, 175 and 176 on gender equity and equality of opportunity, providing, among others, that: (i) gender equity and equality of opportunity shall be guaranteed in all aspects of working life (section 172); and (ii) workers, regardless of gender, may opt to perform work assigned by their employer outside the workplace, and may provide services via telework or distance work (section 175). The Committee also notes that the draft Bill provides for the development of codes of conduct for employers or their adhesion to a code of conduct with a view to guaranteeing gender equality within the enterprise (section 2); provides that trade unions shall adopt statutory rules to guarantee respect for gender equality within their organizations (section 3); and provides that the parties to collective labour agreements shall adopt the relevant clauses to guarantee gender equality and the application of these agreements (section 4). ***The Committee welcomes this legislative initiative and requests the Government to report any developments in this respect.***

Regarding the provisions on equal remuneration and the reconciliation of work and private and family life, the Committee refers to its comments on the application of the Equal Remuneration Convention, 1951 (No. 100), and the Workers with Family Responsibilities Convention, 1981 (No. 156).

Article 1 of the Convention. Protection against discrimination. In its previous observation, the Committee requested the Government to continue providing information on the implementation in practice of the measures taken pursuant to general Recommendation No. 6 of 2009 (promotion of equal treatment in access to employment without discrimination based on age, physical appearance, social origin, nationality and disability) of the National Institute to Combat Discrimination, Xenophobia and Racism (INADI), aimed at promoting equal treatment in access to employment. The Committee also requested the Government: (i) to provide information on the application in practice of the new section 73 of the Employment Contract Act which, following the adoption of Act No. 26.911 of 13 December 2013, prohibits the employer “at the time of recruitment, during the contract or with a view to the termination thereof, to conduct any kind of inquiry, research or investigation into the political, religious, trade union or cultural views or sexual orientation of the worker”, and on any complaints concerning the application of the Convention; and (ii) to indicate which specific measures have been adopted with a view to guaranteeing adequate protection against discrimination on all the grounds provided for in the Convention, in relation to access to employment, during the employment and upon its termination.

The Committee notes the Government’s indication that INADI plans to produce a report on discrimination in access to employment with the aim of updating general Recommendation No. 6 of 2009 and is continuing to conduct training and awareness-raising activities for members of the business, trade union and public sectors. Regarding complaints presented in relation to section 73 of the Employment Contracts Act, the Committee notes the Government’s indication that 207 and 153 complaints were received regarding cases of discrimination on the grounds of ethnicity, religion, sexual orientation and nationality, inter alia, in 2016 and 2017, respectively. The Government also reports that INADI has issued several non-binding opinions, in which it expressed its views on whether there had been discriminatory behaviour and, where necessary, made the relevant recommendations, in addition to proposing its good offices or conciliation, resolving 96 cases between 2016 and 2017. ***The Committee requests the Government to continue providing information on the specific measures adopted with a view to guaranteeing adequate protection against discrimination on all the grounds set out in the Convention and on the complaints received and their outcome. The Committee also requests the Government to provide information on the results of the study into discrimination in access to employment conducted by INADI and any follow-up actions taken and their outcomes.***

Article 2. National equality policy. In its previous observation, the Committee requested the Government: (i) to provide information on any developments concerning the adoption of a national equality policy covering at least all the grounds of discrimination set out in the Convention in addition to other criteria established in the national legislation, such as disability; (ii) to provide information, pursuant to *Article 3(f)* of the Convention, on the specific measures taken to implement the principle of equality and non-discrimination in employment and occupation; (iii) to continue providing information on the action taken by INADI in response to complaints of discrimination in employment, disaggregated by grounds of discrimination, including any penalties imposed and compensation awarded; and (iv) to provide information on the implementation in practice of Ministerial Decision No. 270/2015, which prohibits HIV testing in the pre-employment examination. The Committee notes the Government’s indication that INADI is preparing a publication to raise the awareness of the population of the barriers faced by persons with HIV in accessing the world of work and is developing training programmes with networks of enterprises regarding the prohibition on conducting pre-employment HIV testing. The Committee recalls that, while the relative importance of the issues related to each of the prohibited grounds of discrimination set out in the Convention may vary from one country to another, when examining the situation and deciding the measures to be adopted, it is essential to take into account all the grounds in the application of the national policy. ***The Committee once again requests the Government to provide information on any developments concerning the adoption of a national equality policy covering at least all the grounds of discrimination set out in the Convention in addition to other criteria established in the national legislation, such as disability. The Committee also requests the Government to evaluate the results achieved through the application of the national equality policy and to provide information in that respect. Please also continue providing information on the implementation in practice of Ministerial Decision No. 270/2015, which prohibits HIV testing in the pre-employment examination.***

Indigenous peoples. The Committee recalls that in its previous observation it referred to the signature on 19 November 2013 of a framework cooperation agreement between the MTEySS and INADI, the goal of which is to ensure and promote the right to equal opportunity and treatment in access to employment and to establish cooperation mechanisms to remove discrimination on various grounds, especially towards indigenous peoples. The Government also reports on the adoption by INADI and the Secretariat of Employment of the “Safeguarding indigenous peoples” initiative, the objective of which is to raise the awareness of officials in employment offices and vocational training institutions regarding non-discrimination towards indigenous peoples in access to employment and training. The Committee therefore requested the Government: (i) to provide information on the results achieved through these measures and to continue taking steps to increase the vocational training and guidance opportunities for indigenous peoples and to promote their access to employment and occupation on an equal footing with other workers; and (ii) to provide statistical information, disaggregated by sex, on the participation of indigenous workers in the labour market. The Committee notes the Government’s indication that INADI participated in the Inter-ministerial Roundtable for Indigenous Peoples (MIMPI), through which action lines were proposed to enhance the inclusion of indigenous men and women in state public policies. The Government also indicates that various information materials have been published on the rights of indigenous peoples in order to raise awareness and eradicate structural discrimination against them. The Committee also notes the Government’s indication of complaints related to the discrimination suffered by indigenous men and women and notes that, in 2016 and 2017, respectively two and ten complaints from indigenous persons were received. The Committee recalls that, where no cases or complaints, or very few, are being lodged, this is likely to indicate a lack of an appropriate legal framework, lack of awareness of rights, lack of confidence in or absence of practical access to procedures, or fear of reprisals (see 2012 General Survey on the fundamental Conventions, paragraph 870).

The Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) expressed concern about the persistent structural discrimination against indigenous peoples; the difficulties faced by members of indigenous peoples in gaining access to the formal labour market and their concentration in work that does not allow them to gain access to fundamental labour rights (CERD/C/ARG/CO/21-23, 11 January 2017, paragraphs 6 and 31). The Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the fact that indigenous women face intersecting forms of discrimination in the country, based on their ethnic origin and social status, in addition to racial hatred, violence, poverty and marginalization (CEDAW/C/ARG/CO/7, 25 November 2016, paragraph 40). ***The Committee requests the Government to continue taking proactive measures with a view to guaranteeing equality of opportunity and treatment in employment and occupation for indigenous men and women, including measures designed to guarantee their access to the material goods and services necessary to take up an occupation on an equal footing with other sectors of the population, and to provide information on their impact on the application of the Convention and any obstacles encountered. The Committee also requests the Government to provide statistical information on the participation of indigenous workers in the labour market, disaggregated by sex. The Committee also requests the Government to provide information on any measures adopted or envisaged with a view to examining whether the existing substantive provisions and procedures allow in practice indigenous peoples and their members to lodge and proceed with complaints and on the obstacles and difficulties encountered, and requests the Government to continue providing information on the number of complaints of discrimination lodged, their nature and outcome.***

The Committee is raising other matters in a request addressed directly to the Government.

Bahamas

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

In view of the short report sent by the Government, the Committee notes with **concern** that the questions raised previously about the determination of rates of remuneration, objective job evaluation, collective agreements and the effectiveness of the enforcement mechanisms have not been addressed since 2004. ***The Committee reiterates that without the necessary information, it is not in a position to assess the effective implementation of the Convention, or any progress achieved since its ratification in 2001. It firmly hopes that the next report will contain full information on the points described below.***

Article 1 of the Convention. Equal remuneration for work of equal value. Legislation. The Committee recalls that, in its previous comments, it had pointed out that section 6 of the Employment Act, 2001, unduly limits the scope of “work of equal value” to work performed in the same establishment, requiring substantially the same skill, effort and responsibility, and which is performed under similar working conditions and refers to “rates of pay” which, pursuant to section 2(1), is narrower than the term “remuneration” set out in the Convention. The Committee notes that the Employment Act was amended in April 2017 by the Employment (Amendment) Act (No. 5 of 2017). However, it notes with **deep concern** that the Government did not seize this opportunity to amend section 6 of the Act with a view to giving full legislative expression to the principle of equal remuneration for men and women for work of equal value. It also notes that, in its reply to the list of issues and questions raised by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) in relation to the sixth periodic report of the Bahamas, the Government continues to refer to section 6 of the Employment Act, 2001 (CEDAW/C/BHS/Q/6/Add.1, 9 July 2018, paragraph 80),

despite the fact that CEDAW has been raising this issue for more than 15 years. *The Committee, once again, urges the Government to take active steps to amend section 6 of the Employment Act, 2001, in order to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. In this regard, the Committee asks the Government to ensure that the legislation allows for the comparison not only of jobs in the same establishment and requiring substantially the same skills, efforts and responsibility, and performed under similar working conditions, but also of work of an entirely different nature which is nevertheless of equal value, and provides for a broad definition of “remuneration” as set out in Article 1(a) of the Convention.*

Article 2. Determining rates of remuneration. The Committee notes the Government’s statement according to which it is unable to provide rates of remuneration and specify how rates of remuneration are determined in the civil service and the public sector. In its 2012 General Survey, on the fundamental Conventions, paragraphs 670 and 671, the Committee indicates that member States bound by the Convention cannot be passive in their approach to implementing the Convention and that they are obliged to ensure the application of the principle of the Convention where the State is the employer or otherwise controls business or where the State is in a position to intervene in the wage-fixing process. The Government must take proactive measures in order to assess, promote and ensure the application of the principle of the Convention. *The Committee trusts that the Government will be in a position to provide information in its next report on the manner in which remuneration is determined in the civil service and the public sector, including copies of wage scales and information on the method and criteria used to establish them.*

Article 3. Objective evaluation of jobs. The Committee notes the Government’s indication that it has prepared a “White Paper” on legislation for the establishment of a National Productivity Council and that in a few years, it may be possible to provide reports relating to the development and use of objective job evaluation systems on the basis of the work performed in the public and the private sectors. While acknowledging that the implementation of the Convention may need to be achieved over time, the Committee recalls that, the right to equal remuneration for work of equal value being a fundamental right, the period for the full application of the Convention should be as short as possible, with deadlines being fixed for the attainment of specific objectives (2012 General Survey, paragraph 671). *The Committee requests the Government to provide information on the progress made towards the adoption of legislation for the establishment of a National Productivity Council and, in the meantime, on any measures taken or agreements and policies adopted providing for objective job evaluation including the time frames proposed for their implementation.*

Article 4. Cooperation with workers’ and employers’ organizations. *Noting the indication from the Government that it does not have anything to report on this point, the Committee requests, once again, the Government to indicate the measures taken or envisaged to encourage the social partners to discuss the principle of equal remuneration between men and women for work of equal value and to include provisions to that effect in their agreements.*

Enforcement. *As the Government’s report is silent on this point, the Committee firmly hopes that the Government will take steps to improve the capacity of labour inspectors to detect and address pay inequalities between men and women for work of equal value, and to ensure that workers are informed of their right to equal pay for work of equal value and of the dispute resolution mechanisms available. The Committee requests, once again, the Government to provide information on any activities undertaken in this regard.*

Practical application and statistics. In its previous comment, the Committee had requested the Government to take steps to determine the underlying reasons for wage differentials between men and women, and to indicate the measures taken or envisaged to address these differentials in various occupations, particularly in the higher-level occupational category of senior officials and managers, where the wage gap is particularly striking. It notes that the Government has not provided the information requested. According to the statistics of 2017 to which the Government refers in its report, the long-existing average weekly wage gap between men and women in the accommodation and food service activities industry for New Providence (where 70 per cent of the population lives) was eliminated in 2013 – a year where the weekly wage reached a ten-year low – but reappeared as from 2014 and has been increasing ever since. *The Committee requests, once again, the Government to take steps to determine the underlying reasons for wage differentials between men and women, and to indicate the measures taken or envisaged to address these differentials in various occupations, particularly in the higher-level occupational category of senior officials and managers. The Government is also asked to continue to provide statistical information on the earnings of men and women in the various economic sectors and occupations in the public and private sectors.*

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)

Article 1(1)(a) of the Convention. Discrimination grounds. Legislation. The Committee recalls that, in its previous comment, it noted that section 6(a) of the Employment Act of 2001 had not been amended to include “colour”, “national extraction” and “social origin” as prohibited grounds of discrimination and asked the Government to identify the specific steps taken to ensure protection against discrimination on the basis of the above-mentioned grounds in practice. The Employment Act was amended in April 2017 by the Employment (Amendment) Act (No. 5 of 2017). The Committee notes with *concern* that the Government did not take this opportunity to amend section 6(a) of the Act. *Recalling that where legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination specified in Article 1(1)(a) of the Convention, the Committee asks the Government to amend*

the Employment Act of 2001 accordingly. In the meantime, it asks the Government to provide information on the specific steps taken to ensure protection against direct and indirect discrimination in employment and occupation, in practice, on the basis of the grounds of colour, national extraction and social origin, and to provide a copy of any judicial decision to this effect.

Articles 2 and 3. Equality of opportunity and treatment between men and women. The Committee recalls its previous comments noting the occupational segregation of men and women, including in the higher occupational category of senior officials and managers. The Government's report is silent on this point. However, the Committee notes the information provided by the Government to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in its sixth periodic report, according to which there remains marked occupational segregation not only in terms of employment but also in education. According to data from the Department of Statistics, in 2015, women dominated sectors such as hotels and restaurants; financing, insurance, real estate and other business; and community, social and personal services; but represented 6 per cent or less of workers in construction or agriculture, hunting, forestry and fisheries. In its report to CEDAW, the Government indicated that the percentage of women who graduated in 2015 from the College of the Bahamas in the fields of sciences (11.78 per cent), law (5.79 per cent), engineering (0.20 per cent) or agriculture (0 per cent) were significantly low. Similarly, among graduates from the Bahamas Technical and Vocational Institute (BTVI), women were overwhelmingly represented in certain sectors (100 per cent in cosmetology, fashion design production, aesthetics; and 83 per cent among office assistants) and not at all in sectors leading to higher-paying occupations such as construction technology; information technology management or support; auto mechanics; electronics and cable installation; heating, ventilation and air conditioning; or plumbing (CEDAW/C/BHS/6, 26 May 2017, paragraphs 93, 94 and 101). The Committee observes that the above information confirms that, despite the increasing number of women graduating, they remain concentrated in so-called typically female occupations. *The Committee reiterates its request to the Government to provide detailed information on the measures taken to address the occupational segregation of men and women and to promote women's participation in a wider range of training courses, including those traditionally undertaken by men. The Government is also asked to indicate, including by means of statistics disaggregated by sex, the results achieved by the adoption of any measures to promote women's access to a wider variety of jobs which have better career prospects in the public and private sectors.*

The Committee notes with *concern* that the Government's report contains no reply to some of its previous comments. It expects that the next report will contain full information on the matters raised in its previous comments initially made in 2010, on the following points:

Article 5. Special measures. The Committee recalls that article 26(4)(d) of the Constitution, by referring to the "special circumstances" of the persons protected from discrimination, would appear to allow for the taking of positive measures in favour of those covered by the Convention. The Committee notes the Government's indication that it is committed to taking the necessary measures to ensure compliance with the Convention pending further review of the Employment Act, 2001, though it does not elaborate on the meaning of this constitutional provision, as requested by the Committee. *The Committee therefore reiterates its request to the Government to indicate whether it has or intends to rely on article 26(4)(d) of the Constitution in order to take positive measures to promote the employment of women or certain disadvantaged groups.*

Application of the Convention in practice. The Committee notes that the Government's report still does not contain any information regarding the questions raised in *Parts III and IV* of the report form, but that the Government expresses its commitment to providing such information. *The Committee asks the Government to collect and provide information on the concrete steps taken by the Ministry of Labour to promote and ensure equality in employment and occupation, including information on the relevant activities of labour inspection services and the public labour employment exchange services. Please also provide any relevant decisions of the Industrial Tribunal or the courts with regard to equality in employment and occupation, particularly decisions involving section 6 of the Employment Act and state the number of complaints that have been filed in recent years alleging discrimination in employment and education, and the outcome of such complaints.*

The Committee is raising other matters in a request addressed directly to the Government.

Bahrain

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)

The Committee notes the report of the direct contacts mission as well as the observations made by the General Federation of Bahrain Trade Unions (GFBTU) and the International Trade Union Confederation (ITUC), received respectively on 30 August and 1 September 2018.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion in the Conference Committee on the Application of Standards (CAS) of the International Labour Conference, at its 107th Session (June 2018), on the application of the Convention, and the conclusions adopted. The conclusions of the CAS called upon the Government of Bahrain: (i) to provide information on the measures taken to implement the commitments contained in the Tripartite Agreements of 2012 and 2014 signed under the auspices of the ILO, concerning the resolution of cases involving suspension, dismissal and other sanctions imposed on trade union members and leaders, following the events of 2011, and to ensure that all the outstanding cases of reinstatement and compensation for the cases falling under the scope of the Tripartite Agreements are resolved; (ii) to

ensure that its legal framework is in conformity with the requirements of the Convention, in particular with regard to the definition and formal prohibition of direct and indirect discrimination across all seven grounds in the Convention, and of sexual harassment; (iii) to ensure that migrant workers as well as domestic workers are included in the protection of anti-discrimination law; and (iv) to repeal any provisions that constitute an obstacle to the recruitment and employment of women. The Committee notes that during the discussion held in June 2018, the Government accepted the CAS request (made in June 2017) that a direct contacts mission take place. This took place between 15 and 19 September 2018. Finally the Committee notes that following the visit of the direct contacts mission, the Government sent a communication to the ILO providing updated information concerning the implementation of the Tripartite Agreements of 2012 and 2014 and communicating copies of draft amendments and regulations submitted to Cabinet, in accordance with the direct contacts mission's request.

I. Measures taken to implement the commitments contained in the Tripartite Agreements of 2012 and 2014

Article 1 of the Convention. Discrimination on the basis of political opinion. The Committee recalls that, at the 100th Session (June 2011) of the International Labour Conference, a complaint under article 26 of the ILO Constitution concerning the non-observance by Bahrain of the Convention was filed by some Workers' delegates at the Conference. According to the complaint, in February 2011, suspensions and various other sanctions, including dismissals, were imposed on trade union members and leaders, as a result of peaceful demonstrations demanding economic and social changes and expressing support for ongoing democratization and reform. The complaint alleged that these dismissals (approximately 4,600) were on the grounds of the workers' opinions, beliefs and trade union affiliation. At its 319th Session (October 2013), the Governing Body welcomed a Tripartite Agreement, reached in March 2012 by the Government, the GFBTU and the Bahrain Chamber of Commerce and Industry (BCCI). At its 320th Session (March 2014), the Governing Body welcomed the adoption of a Supplementary Tripartite Agreement signed in March 2014 on the final settlement of the dismissed workers. Consequently, the complaint under article 26 of the ILO Constitution was closed and the Governing Body invited this Committee to follow up on the implementation of the Tripartite Agreements, in particular with regard to the 165 outstanding dismissal cases (according to the list annexed to the Supplementary Tripartite Agreement of 2014) and to examine the application of the Convention by the Government.

In its 2017 report submitted pursuant to article 22 of the ILO Constitution, the Government explained that all the cases concerning workers dismissed for reasons relating to the events of February 2011 had been resolved on the basis of cooperation at the national level between the social partners. However, the Committee noted that, according to ITUC observations, 64 cases of dismissal relating to the events of February 2011 were still outstanding. Noting that the GFBTU, which is a party to the Tripartite Agreements, did not send its observations confirming that there had been full implementation of the above-mentioned Agreements, the Committee had asked the Government to provide evidence that the cases of the 165 dismissed workers mentioned by name in the Annex to the Tripartite Agreement of March 2014 had been resolved to the respective satisfaction of the parties.

In its latest report the Government stresses the efforts exerted by the Tripartite Committee set up to settle the cases of workers who had been dismissed in the wake of the 2011 events. The Government indicates that, only nine cases (out of the initial 4,600) remain outstanding but that they are about to be settled. The Government provides a detailed account of the steps taken in this regard in cooperation with the GFBTU. The Committee notes that this information was also communicated to the direct contacts mission during its meeting with officials of the Ministry of Labour and Social Development (MLSD). As for the "certificate of rehabilitation", mentioned in the Committee's previous comment, the Government indicates that it is not a precondition for employment nor necessary to benefit from the Government's services in training and placement but that it is a document delivered by the courts, upon request, to workers who have been convicted by the courts, served their sentence and who have expressed the wish to apply once again for a job in the public sector.

The Committee notes that in their observations both the GFBTU and the ITUC maintain that there are more than the nine outstanding cases mentioned by the Government. They argue that of the 64 cases which were still pending in 2017, at the date of submitting their observations and at the meeting with the direct contacts mission (September 2018), 55 cases remain outstanding. Both organizations draw attention to the fact that, apart from the alleged 55 outstanding cases, there remain a number of other outstanding issues regarding the implementation of the Tripartite Agreements, which relate to: (i) the fact that, although according to the Tripartite Agreements, dismissed workers were entitled to be reinstated in sectors and with job descriptions similar to those in which they had worked prior to their dismissals, in practice this undertaking is not always respected. The GFBTU and the ITUC give concrete examples, such as the case of a company driver who was reinstated as a forklift operator, and a trade union leader formerly employed as an engineer now working in the maintenance service; (ii) cases that could not be considered as a proper implementation of the Tripartite Agreements, for example some workers have been pressured to accept early retirement or to become self-employed, while others were arbitrarily dismissed shortly after being reinstated; (iii) cases where workers have been dismissed because they were facing criminal charges (contrary to Bahraini law, where only a guilty verdict following a criminal trial could justify termination of employment) and were still waiting to be reinstated after having been found not guilty; and (iv) a lack of proper compensation for the loss of income incurred since dismissal and the treatment of social security contributions for the period between dismissal and reinstatement or the acceptance of a financial package in lieu of

reinstatement (with the exception of the cases of BCCI and the University of Bahrain, where dismissed workers were fully compensated). Finally, both organizations indicate that, following the signing of the Tripartite Agreement of 2014, 17 new cases of dismissals have occurred, based on the same grounds as of 2011 (political opinion, belief and trade union affiliation).

The Committee notes that during its last meeting with the direct contacts mission, the GFBTU indicated a willingness to acknowledge that some of the 55 cases were close to being resolved. However, the GFBTU emphasized that it could only undertake a proper assessment of some of these cases once a three-month period had elapsed after reinstatement and the workers were able to confirm that they were satisfied with the arrangements made. As to the nine cases that had been mentioned by the MLSD as the only remaining cases, information regarding the most recent MLSD efforts for the settlement of five of these cases is noted. The Committee further notes that the GFBTU indicated a willingness to further discuss with the MLSD the list of 55 cases, if effective efforts were made to resolve the remaining four cases, out of the nine acknowledged by the MLSD to be outstanding, bearing in mind that these four cases were former employees of Government departments who had not been convicted of any crime. Further, the GFBTU emphasized that, for those workers whose cases had not been resolved, the consequences for them and their families were severe (no regular income since 2011 and sometimes no possibility of finding new employment as they are “blacklisted”). The GFBTU expressed the hope that the outstanding matters could be effectively settled by January 2019. From the information contained in the direct contacts mission report, the Committee notes that Bahrain’s tripartite constituents have made strenuous efforts to resolve the remaining cases listed in the Tripartite Agreements of 2012 and 2014 and that consequently very few cases remain outstanding. However, it notes that the number of outstanding cases is still the subject of dispute between the Government (nine) and the GFBTU (55) and that the direct contacts mission acknowledged that each and every case that remains outstanding is important because of the impact on the workers affected and on their families. It also notes that, both the Government and the GFBTU have expressed their commitment to coming to an agreement on the number of outstanding cases and to resolving them. ***Welcoming this commitment, the Committee calls upon both parties to strengthen their efforts to agree upon the number of outstanding cases and to resolve them in accordance with the Tripartite Agreements, including with regard to financial compensation and the provision of social insurance coverage for the period of interrupted service. It urges the Government and the GFBTU to address the outstanding cases in a constructive, pragmatic and flexible way without delay in order to move forward and engage with other pressing issues for the tripartite constituents. Noting that the Tripartite Agreements of 2012 and 2014 contain an undertaking from the tripartite constituents that they will “promote social and institutional dialogue through strengthening the existing tripartite mechanisms in accordance with national laws and regulations as well as with international principles and standards” in order “to strengthen productive relations and advance social dialogue”, the Committee wishes to point out that the Tripartite Agreements provide an opportunity not only to resolve the individual cases but also to develop constructive social dialogue, which has been hindered since 2011.***

In its previous comments, the Committee had asked the Government to provide its comments on the allegations of Education International (EI) and the Bahrain Teachers Association (BTA) that, following the dismissal of a number of teachers involved in the peaceful demonstrations during the 2011 events, some 9,000 expatriates had been hired from Arab States by the Ministry of Education and that a two-tier teacher workforce has been established with expatriate teachers benefiting from better conditions than nationals. The Committee notes that according to the Government, this information is erroneous as the Ministry of Education (MoE) has reinstated the small number of dismissed workers. Furthermore, the Government indicates that the MoE continues to advertise its vacancies, carry out the necessary tests and interviews and employ Bahraini citizens as a priority, in conformity with the national policy of “indigenization” of the public sector in general and of educational jobs in particular (Bahrain Economic Vision 2030). Expatriate employment is limited to specializations in which national graduates are lacking and each year the Government earmarks a large amount of its budget for training its national employees to progressively replace expatriate teachers. As a result, in the past years, all the teachers benefiting from promotions and grades are Bahraini citizens; consequently, 100 per cent of the MoE upper and middle management, directors and high officials are nationals of Bahrain. On this point, the Government also draws the Committee’s attention to the fact that the BTA was dissolved in 2011 and it questions the credibility of any information provided by the Association. In addition, the Committee notes the information given to the direct contacts mission during its meeting with officials of the MoE that, out of a total of 25,000 employees (in the public sector), no more than 70 teachers were dismissed and to date all of those teachers have been reinstated with full compensation (back pay and social security coverage from the date of dismissal). There have not been reinstatements in four cases because the persons concerned had criminal records and responsibility for such cases lies with the Civil Service Bureau (CSB). During its meeting with the direct contacts mission, the CSB confirmed that the 180 teachers who had been dismissed in 2011 had all been reinstated with full benefits; the four outstanding dismissal cases were not linked to the 2011 events but related to other grounds (mainly misconduct), and referred the direct contacts mission to section 25.1(g) of the Civil Service Law (Reasons for termination service) which stipulates that: “An Employee’s service shall be terminated for the following reasons: ... Dismissal from service by a disciplinary action or in accordance with a judicial ruling.” The Committee notes that, during its meeting with the GFBTU, the direct contacts mission was told that 15 teachers who were members of the BTA had been dismissed following the events of 2011, and five of them, including the Vice-President, had still not been reinstated nor had they been provided with any information on the progress of their cases and consequently were unable to gain employment in private schools due to the lack of clearance from the MoE. In addition, the direct contacts mission

was informed that dismissed teachers were frequently replaced by teachers who had recently been naturalized as Bahraini citizens. ***The Committee therefore asks the Government to provide its comments on these allegations, including whether the difficulties encountered by the dismissed workers are linked to the failure to issue a “certificate of rehabilitation”.***

With regard to discrimination based on political opinion, the Committee notes the concluding observations of the United Nations Human Rights Committee (HRC) on the initial report of Bahrain on the application of the International Covenant on Civil and Political Rights (CCPR). In these concluding observations, while acknowledging the State Party’s need to adopt measures to combat acts of terrorism, the HRC expressed concerns that the Act on the Protection of Society from Acts of Terrorism (Act No. 58/2006) provides for an overly broad definition of terrorism that is susceptible to wider interpretation which may result in violations of the right to freedom of expression and assembly. It notes that the HRC is concerned at reports of the extensive use of the Act outside the scope of terrorism, including against human rights defenders and political activists (CCPR/C/BHR/CO/1, 26 July 2018, paragraph 28). Noting that the same concerns were mentioned by the GFBTU during its meetings with the direct contacts mission, and that the ITUC indicates in its observation that the CSB recently published a circular which anticipates disciplinary measures, including dismissal, for any worker “abusing the social media” the Committee recalls that the protection against discrimination on the basis of political opinion under the Convention implies protection in respect of the activities relating to the expression or demonstration of views in opposition to established political principles and opinions. It also covers discrimination based on political affiliation. The protection of political opinion applies to opinions which are either expressed or demonstrated, but does not apply where violent methods are used (see 2012 General Survey on the fundamental Conventions, paragraph 805). ***The Committee asks the Government to ensure that the application in practice of Act No. 58/2006 does not infringe the right to be protected from discrimination on the ground of political opinion and to keep it informed of any developments in this respect. It also asks the Government to specify the nature of the offence of “social media abuse” mentioned by the ITUC to ensure that political opinion does not fall under the purview of the new circular.***

II. Measures to ensure that Bahrain’s legal framework is in compliance with the requirements of the Convention

The Committee recalls that, since the ratification of the Convention in 2000, it has been asking the Government to implement legislative reforms.

The Committee also notes that following the direct contacts mission, the Government sent to the Head of the direct contacts mission and the ILO drafts of proposed amendments directed at ensuring compliance with the Convention. These will be reviewed below under the relevant Articles of the Convention.

Article 1(1)(a) and (3). Grounds of discrimination and aspects of employment and occupation. Labour Law in the Private Sector. The Committee recalls that in its previous comments it had noted that the Labour Law in the Private Sector of 2012 (Law No. 36/2012) does not apply to “domestic servants and persons regarded as such, including agricultural workers, security house guards, nannies, drivers and cooks” performing work for the employer or the employer’s family members (section 2(b)). It had stressed that sections 39 (discrimination in wages) and 104 (termination considered to be discriminatory) of the Labour Law in the Private Sector do not include race, colour (only mentioned in section 39), political opinion, national extraction and social origin in the list of prohibited grounds of discrimination. Consequently, it had reiterated its request to the Government to take the necessary steps to include in the Labour Law in the private sector a definition of discrimination as well as a prohibition of direct and indirect discrimination that covers all workers, without distinction whatsoever, with respect to all grounds provided for in the Convention, including colour; with respect to all aspects of employment, including access to vocational training, access to employment and to particular occupations, and terms and conditions of employment, and to provide information on any developments in this regard. The Committee also notes the CAS’s conclusions referred to above.

The Committee notes that the Government reiterates its statement that no complaints on discrimination in employment or occupation against nationals or expatriates based on religion, ethnicity, colour, belief or affiliation were filed and that the legal framework in place (Constitution, Labour Law in the Private Sector, Civil Service Law, Penal Code) provides constitutional safeguards directed at achieving justice, equality and non-discrimination. Nevertheless, in 2017, the Government decided to address the CEACR and CAS’s recommendations, commenced a review of the Labour Law and has drafted proposed amendments for presenting to the National Assembly. The Committee notes that under the terms of the proposed amendments, if enacted, a new section – section 2 bis – will be incorporated into the Labour Law for the Private Sector, as follows: “Discrimination on the grounds of sex, origin, language, religion or belief among the workers who are prescribed by the provisions of this law is hereby prohibited”; and the current section 185 will be slightly modified to refer to section 2 bis as follows: “A penalty of a minimum fine of 200 dinars [approximately US\$530] and a maximum of 500 dinars [US\$1,326] shall be imposed on any employer or his representative who violates any provisions specified in section 2 bis.” The Committee notes that these two new provisions will introduce protection against discrimination in employment for domestic workers and the like. However, it also notes that these amendments fall short of the legislative reforms expected. As amended, the Labour Law in the Private Sector omits: (i) a comprehensive definition of discrimination; (ii) a prohibition of direct and indirect discrimination; (iii) protection against discrimination in employment and occupation based on all the seven grounds provided for in the Convention (including race, colour, political opinion, national extraction and social origin); and (iv) protection extending to all aspects of employment and

particular occupation (including access to vocational training, employment and particular occupations and terms and conditions of employment). It notes that the newly drafted section 185 specifies that sanctions are available when an employer or his/her representative has subjected a worker to discrimination, but not when a worker is subject to discrimination by a co-worker; and that the draft is silent as to the remedies available to the victim.

Public service. The Committee recalls its previous comment, that public sector workers are covered by Civil Service Instruction No. 16/2016 which only prohibits discrimination based on gender, ethnicity, age or religion and its request to the Government that it take the necessary measures to ensure that public officials enjoy adequate protection in practice against direct and indirect discrimination in employment and occupation, with respect to all grounds provided for in the Convention. The Committee notes with **concern** that the Government's report is silent on this point and that the proposed amendments communicated to the ILO on 11 October 2018 are limited to the Labour Law in the Private Sector and do not concern the Civil Service Instruction No. 16/2016 which is also not in conformity with the Convention. The Committee wishes to reiterate once again that a clear and comprehensive definition of discrimination in employment and occupation is critical in identifying and addressing the many manifestations in which it may occur (see 2012 General Survey on the fundamental Conventions, paragraph 743). It also wishes to stress that the lack of complaints is not an indicator of the absence of discrimination in practice. It most likely reflects the lack of an appropriate legal framework, a lack of awareness of rights, a lack of confidence in, or the absence of, practical access to procedures, or fear of reprisals. In that regard, the Committee notes that in its findings, the direct contacts mission found that there is low-level awareness as to the procedure for enforcing the prohibitions on discrimination and as to the remedies available. In addition, it notes that in its concluding observations on the initial report of Bahrain dated 26 July 2018, the HRC regretted the lack of comprehensive anti-discrimination legislation covering all the grounds prohibited under the CCPR and expressed concern about the lack of information on effective remedies for victims of discrimination (CCPR/C/BHR/CO/1, paragraph 14). **Consequently, the Committee urges the Government to amend both the Labour Law and the Civil Service Law (Civil Service Instruction No. 16/2016 and Legislative Decree No. 48 of 2010) to incorporate a comprehensive definition of all forms of discrimination in accordance with the Convention and to accept the direct contacts mission's recommendations that the current legal reforms should ensure that both the Labour Law and the Civil Service Law: (i) contain a comprehensive definition of discrimination which should include direct and indirect discrimination and cover the seven grounds listed in the Convention; (ii) cover all categories of workers, including migrant workers, since the Convention is not limited in its scope as regards individuals or branches of activity; (iii) protect against discrimination in all forms of employment and occupation including in access to vocational training, employment and particular occupations and terms of conditions; and (iv) specify the remedies available for victims of discrimination.**

Discrimination based on sex. Sexual harassment. The Committee recalls that it had referred to the need to define and prohibit, expressly, sexual harassment in employment and occupation encompassing both: (i) *quid pro quo*: any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men which is unwelcome, unreasonable and offensive to the recipient; and a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job; or (ii) *hostile work environment*: conduct that creates an intimidating, hostile or humiliating working environment for the recipient. It notes that in its 2018 conclusions, the CAS also called upon the Government to ensure that sexual harassment is explicitly prohibited in the civil or labour law and that the necessary steps to introduce preventive measures are taken. The Committee notes that, in an effort to ensure full compliance with the Convention in that regard, the Government asked the ILO for technical assistance on 23 July 2018 and the Office provided the MLSD with such assistance on 13 August 2018. The Committee notes that one of the amendments submitted to the ILO after the direct contacts mission addresses sexual harassment at work. Section 192 bis states that: "A sentence of imprisonment of a maximum of one year or a maximum fine of 100 dinars [approximately \$265] shall be imposed on any worker who, in the course of, or for reasons of employment, sexually harasses a co-worker by a gesture, verbal or physical conduct, or by any other means. A sentence of imprisonment for a minimum term of six months or a minimum fine of 500 dinars [\$1,326] and a maximum fine of 1,000 dinars [\$2,653] shall be imposed, whenever such a crime is committed by the employer or by his representative." The Committee notes that although this new provision formally prohibits sexual harassment in the labour legislation (in addition to the Penal Code) and prescribes the sanctions available in the case of serious misconduct, it does not include a clear definition of sexual harassment and it only addresses cases where a worker is subject to sexual harassment from a co-worker and not when the perpetrator is a representative of the employer or a client. Once again, the Committee emphasizes that without a clear definition of sexual harassment in employment, it remains doubtful whether the legislation effectively addresses all forms of sexual harassment, both *quid pro quo* and *hostile working environment* sexual harassment (see 2012 General Survey, paragraph 791). **Recalling once again that sexual harassment is a serious manifestation of sex discrimination and a violation of human rights, the Committee once again urges the Government to take steps to incorporate a comprehensive definition of sexual harassment, both in the Labour Law and the Civil Service Law, and to provide for access to effective remedies. With a view to assessing the dissuasive nature of the sanctions in practice, the Committee asks the Government to provide information on the relationship between the level of fines and the average salary. It also asks the Government to take practical steps to prevent and address sexual harassment in employment and occupation, such as for example, launching awareness-raising campaigns on the subject, encouraging management training on sex-based harassment prevention, or inviting employers to establish formal policies and procedures to deal with sexual harassment, and to provide detailed information in this regard.**

Article 2. Equality of opportunity and treatment between women and men. In its previous comments, the Committee had noted the detailed information provided by the Government on steps taken to promote the principle of equal opportunity between men and women in employment and occupation and had asked the Government to provide information on the impact of each of these steps in increasing the number of women in leadership positions and their situation in the labour market, in particular in areas traditionally dominated by men, and updated statistical information on the participation of men and women in the labour market, disaggregated by sector, occupational category and position in both the public and private sectors, and the number of women and men respectively benefiting from vocational training. The Committee notes that the information provided by the Government in this regard does not reply to its request for information on the practical impact of the steps taken by it but merely reiterates the information and statistics communicated in the Government's previous report. In this regard, the Committee notes the information collected by the direct contacts mission during its meetings in particular with the MoE and the Supreme Council for Women which pointed out the world ranking of the Bahraini education system, the fact that Bahrain has the highest female literacy rate in the Arabian Peninsula (97 per cent of girls are enrolled in primary school and 91 per cent attend secondary school) and one of the highest university gender parity indexes in the region. The Committee notes the outcome of the World Economic Forum (WEF) Global Gender Gap Index (which measures the relative gaps between women and men across four key areas: health, education, economy and politics) which indicates that, in 2015, Bahrain was the Middle East and North Africa region's most improved country with respect to the Economic Participation [of Women] and Opportunity Sub-Index. It notes too that in its 2017 Report, the WEF ranked Bahrain the region's best-performing country (along with Tunisia and the United Arab Emirates). The Committee further notes the Government's Fourth Periodic report (CEDAW/C/BHR/4) submitted by Bahrain in March 2018 to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) and the detailed account of the measures taken by the country to ensure equality of opportunity and treatment in employment of women. The Committee notes that, although Bahraini women have made big strides and are well qualified, it is still not easy for them to secure access to senior positions in the private sector. Women comprise only 39 per cent of the total workforce and are mostly concentrated in the entry and middle-level management. In this respect, the Committee also notes the concerns of the HRC about the persistence of patriarchal stereotypes regarding the role of women and men in the family and in society and the fact that women are under-represented in political and public life, in particular in decision-making, despite the measures taken to promote gender equality (paragraph 20). ***The Committee asks the Government to provide information on any proactive measures taken or envisaged to address the underlying causes and de facto inequalities resulting from discrimination deeply entrenched in traditional and societal values. This should include for example information on any special training and coaching programmes for women employees to develop the skills necessary to access senior positions; measures aimed at reconciling work and family responsibilities and avoiding the reinforcement of stereotypes regarding the role of women and men in society and in the family by extending to men measures currently only available to women (for example, part-time work, unpaid leave to look after a child or a dependent relative, paid leave in the event of the death of the husband of a women worker). Recalling that the effective application of the Convention is an ongoing process requiring a continual cycle of assessment, action, monitoring, further assessment and adjustment, including to address new issues and difficulties, the Committee reiterates its request for information on the impact of all the measures and initiatives adopted in order to increase the number of women in leadership positions and their situation in the labour market, in particular in areas traditionally dominated by men.***

Article 3(c). Migrant workers. The Committee recalls that it had asked the Government to provide its comments on the ITUC's allegations concerning the newly introduced "Flexi scheme" and the *kafala* or sponsorship system and reiterated its previous request to the Government to provide information on the specific measures adopted to ensure effective protection of all migrant workers, including migrant domestic workers, against discrimination based on all the grounds set out in the Convention. The Committee further asked the Government to ensure that any rules adopted to regulate the rights of migrant workers to change employers do not impose conditions or limitations that could increase the dependency of migrant workers on their employers, and thus increase their vulnerability to abuse and discriminatory practice. It also asked the Government to provide information on the nature and number of cases, disaggregated by sex, occupation and country of origin, where the employer or the Labour Market Regulatory Authority (LMRA) had not approved the transfer of an employee to another employer and on what basis.

The Committee notes the Government's response that the legal framework provides legal protection to migrant workers with respect to the regulation of labour relations and ensures the rights of all parties, including protection against discrimination in employment and occupation. The Government states that the competent bodies make great efforts to monitor the effective application of the law and to provide support services specifically designed to protect migrant workers, including: (i) mechanisms for filing individual complaints to the MLSLSD in order to reach amicable settlements; (ii) arrangements allowing for direct contact with the LMRA for migrant workers in several languages; (iii) publication of awareness-raising materials in 14 different languages in cooperation with embassies; (iv) providing migrant workers with the right to transfer from an employer to another, without the consent of the current employer (25,000 approvals in 2017); (v) the introduction of a flexible work permit system (Flexi) from mid-July 2017; (vi) access to an unemployment insurance scheme; (vii) a right of representation in trade unions and federations; (viii) distribution of SIM cards free of charge to keep workers informed in their native language of any developments concerning their work permits and legal status; (ix) introduction of a "National Referral System for Victims of Trafficking in Persons"; (x) creation of a shelter to

support and protect migrant workers in difficult situations; and (xi) periodic meetings with embassies of the countries of origin of migrant workers; etc. As for raising the level of awareness of migrant workers as to their rights, the Government recalls that it is not solely its responsibility to do so but also that of embassies representing the countries of origin, trade unions and civil society organizations related to foreign communities, such as cultural and social clubs. Regarding the ITUC statement that the LMRA continues to allow employers to include in workers' employment contracts a limitation on the right to transfer to another employer for a specified period, the Government states that a worker's freedom to transfer to another employer has become a right and that the LMRA does not take into account any conditions set out in an employment contract which limit a worker's right to transfer to another employer. As for cases where a migrant worker has been subject to abusive practices by his/her employer, he/she can request a transfer without having to observe the fixed conditions and legal deadlines. In addition, the Government points out that to date no such cases have been reported to the LMRA. In reply to the ITUC reference to the *kafala* or sponsorship system or to the nature of the contractual relationship between a migrant worker and an employer, the Government emphasizes that the question of linking the work permit to a specific employer is a regulatory question and is an ongoing practice in numerous countries in the world. The Government considers that it is not related to discrimination nor is it in contravention of the principles enshrined in the Convention. Further, asking that the migrant workers provide documents which attest to their identity such as a passport or any other document is a necessary procedural step. A migrant worker who does not have a passport for any reason may remedy this through the embassy of his/her country of origin. The Government indicates that migrant workers are also permitted to obtain theoretical and practical training in accordance with employers' needs. With respect to the Committee's request that the Government provide information on the nature and number of cases in which request for a transfer to another employer is refused and the basis for this refusal, the Government indicates that the electronic system, which registers transfer requests, does not accept the registration of requests which do not meet the conditions and rules specified in the law. The Government recalls that in addition to the formal mechanisms for the filing of complaints (labour inspection or courts), migrant workers can resort to their embassies, trade unions, and civil society organizations such as, for example, the National Committee for Human Rights. The Government also states that the MLSD pays great attention to training labour inspectors and is currently examining the possibility of establishing a unit specialized in discrimination. With regard to the introduction of a pilot scheme for a Flexi work permit by which migrant workers are allowed to work without a sponsor (subject to fees), the Committee notes the detailed justification given to the direct contacts mission by the Chief Executive Officer of the LMRA according to which the Flexi permit aims to respond to the economic changes in the country (and worldwide) and the ever-increasing demand for casual, part-time, and seasonal workers. This pilot scheme is an attempt to move away from the sponsorship system and the periodic amnesties which have not resolved the problem of migrant workers whose status is irregular. In introducing the Flexi permit, the LMRA is endeavouring to tackle the problem of undocumented workers differently. According to the LMRA, undocumented workers often work on their own account or as self-employed workers and thus compete with workers whose status is regular and with small businesses, since they constitute a cheap and flexible workforce. The Government indicates that under this new scheme, a migrant worker who has a Flexi work permit is a worker who is employed in the labour market, and who is subject to all laws which regulate the relationship between an employer and a worker such as the Labour Law in the Private Sector. This new system allows a migrant worker working in unfair conditions to make an independent application for a personal permit enabling him or her to work without being bound to a particular employer, in accordance with the rules, and thus avoid exploitation. A migrant worker is free to select registration within the Flexi work permit system or the normal work permit, while benefiting from the freedom of transferring to another employer.

The Committee notes the observations of the GFBTU and the ITUC regarding the situation of migrant workers in Bahrain, as well as the information provided by the Migrant Workers Protection Society (MWPS) to the direct contacts mission. The ITUC recalls that migrant workers account for about 77 per cent of the workforce in Bahrain and they are mostly in low-skill, low-wage jobs in construction, trade, manufacturing and domestic work. They are excluded from a number of provisions of the labour and social protection laws and as a result the GFBTU and the ITUC allege that migrant workers: (i) are denied decent working conditions; (ii) work in unsafe environments; (iii) work excessively long hours (up to 19 hours a day with minimal breaks and no days off); (iv) are paid extremely low wages (some employers pay wages averaging 70 dinar (\$186) per month and often go as low as 50 dinars (\$92), which are often unpaid for months); and (v) are excluded from social security benefits, and are only entitled to insurance against work injuries. The situation of domestic workers and particularly women migrant workers is aggravated by the exclusion of private houses from labour inspection. According to the ITUC, from April to July 2018, the number of foreign workers in Bahrain committing suicide increased dramatically. With regard to the Flexi permit scheme, the information provided by the GFBTU, the ITUC and the MWPS indicates that although the scheme was set up initially to help migrant workers regularize their residence status, in practice most of them are excluded from the scheme since: (i) skilled workers, workers who escaped abusive employers, domestic and agricultural workers are not eligible; (ii) its cost is prohibitive (total cost for two years is 1,169 dinars or \$3,125 while most of them earn less than 200 dinars or \$535 per month); and (iii) one of the conditions is to be in possession of a valid passport, a condition that most of the migrant workers in an irregular situation cannot fulfil since their passports will have been confiscated by their employer. In light of the above, the ITUC states that the real objective of the Flexi work permit scheme is to lower the cost of hiring migrant workers and divert money from the free visa black market to the Government rather than regularizing migrant workers in an irregular situation. The ITUC also stresses that, although the Government states that a migrant worker working under this scheme will still enjoy all the benefits and rights

provided by the Labour Law in the Private Sector, it is still not clear which law covers the employment contracts of Flexi permit workers and how this impacts on the labour protections afforded to them. The GFBTU adds that the “Wage improvement protection system” (which requires employers to transfer salaries of employees to a bank) launched by the Government to protect private sector workers may benefit construction workers and other private sector workers but it will not solve the problem of vulnerability faced by domestic workers, particularly housemaids who are not familiar with the bank system and electronic transfers, a statement which was supported by the MWPS. As regard the adoption of the “Tripartite Domestic Workers contract”, which regulates the relationship between the recruitment agency, the employer (the household) and the migrant domestic worker, the aim of which is to prevent the exploitation of domestic workers, this is expected to help guarantee the rights of migrant domestic workers. Employers must now state in detail and in writing, among other things, the nature of the job, the working hours and weekly day off and other conditions of work (accommodation offered, salary, number and ages of household members, etc.). The MWPS explained to the direct contacts mission, however, that in practice this contract is bipartite, between the employment agency and the employer, given that the majority of migrant workers (in particular domestic workers) are illiterate. With regard to the *kafala* or sponsorship system, both the ITUC and the GFBTU point out that, although the Government has repeatedly stated that migrant workers in Bahrain are not subject to the *kafala* system and may change employment without the permission of their sponsor, in practice the LMRA continues to allow employers to include in their employment contracts a provision limiting the circumstances in which approval of a transfer to another employer will be granted, in particular by prohibiting transfer within the first 12 months of employment.

The Committee takes note of the steps taken by the Government to ensure better protection for migrant workers in general and domestic workers in particular. However, it *regrets* that the proposed amendment communicated by the Government on October 2018, aimed at explicitly extending the full protection of the Convention to migrant workers falls short of the Committee’s and CAS’ expectations since the protection against discrimination in employment and occupation afforded to domestic workers and migrant workers does not extend to all the grounds formally prohibited by the Convention. ***The Committee therefore urges the Government to ensure that the text finally adopted covers all the points listed in its comments above under Articles 1(1)(a) and 3 of the Convention. The Committee reminds the Government of the possibility of availing itself of the technical assistance of the ILO in this regard.***

As regards the *kafala* system, the Committee considers that any move towards de-linking migrant workers from the control of a single sponsor is to be welcomed. However, the information provided to the direct contacts mission and the Committee suggests that the Flexi permit scheme is neither meeting the Government’s expectations nor meaningfully improving mobility for migrant workers as a whole. ***Noting that the Flexi permit system is a pilot scheme which will be reviewed after a certain period, the Committee urges the Government to address these issues and consider reducing the fees and relaxing the eligibility criteria to enable more migrants to apply for a Flexi permit. As to the remaining aspects of the kafala system limiting migrant workers’ freedom of movement, the Committee asks the Government to prohibit restrictions on a worker’s freedom to change employer, including before expiry of a 12-month period from the date of commencement of the contract and to provide information on any progress made in this regard. In the meantime, the Committee asks the Government to provide information on the implementation of the Flexi permit scheme and its impact on reducing migrant workers’ vulnerability to exploitation. Noting that the ITUC and the GFBTU are questioning the efficiency of the Wage Improvement Protection System and the Tripartite Domestic Worker Contract, the Committee asks the Government to provide information on the implementation in practice of these two measures and to periodically evaluate them in order to monitor their impact on reducing migrant workers’ vulnerability.***

Article 5. Special measures of protection. The Committee wishes to recall that protective measures for women may be broadly categorized into those aimed at protecting maternity, in the strict sense, which come within the scope of Article 5, and those aimed at protecting women generally because of their sex or gender based on stereotypical perceptions about their capabilities and appropriate role in society which are contrary to the Convention and constitute obstacles to the recruitment and employment of women (see 2012 General Survey on the fundamental Conventions, paragraph 839). The Committee recalls that it considers that provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health. Therefore any restrictions on women’s access to work based on health and safety considerations must be justified and based on scientific evidence and, when in place, must be periodically reviewed in the light of technological developments and scientific progress, to determine whether they are still necessary for protection purposes. The Committee also emphasizes the need to adopt measures and put in place facilities to enable workers with family responsibilities, in particular women who continue to bear the unequal burden of family responsibilities, to reconcile work and family responsibilities. Consequently, in its previous comments, the Committee had urged the Government to take steps to ensure that protective measures applicable to women are limited to maternity protection in the strict sense, and to repeal any provisions that constitute an obstacle to the recruitment and employment of women, such as Ministerial Order No. 16 of 2013 (regarding occupations in which, and the circumstances under which, employing women at night is prohibited) and section 1 of Order No. 32 of 2013 (which prohibits women’s employment in certain sectors and occupations) and asked the Government to provide information on the specific steps taken or envisaged in this regard. The Committee welcomes the proposed amendments communicated by the Government in response to the Committee’s request. The draft amendment defines the work in which pregnant and breastfeeding women may not be employed. However, the Committee is of the view that the draft amendment is overgeneralized both

for the areas of work and the exposure agents (for example in section 1, the text refers to excessive heat but does not precisely define “excessive”). The draft text also omits certain hazards, for example non-ionizing radiation and UV radiation, among others. Overall, the draft also does not take into account the principles of prevention and protection as provided in ILO instruments on occupational safety and health. *In light of the above, while welcoming the decision of the Government to propose amendments to the Ministerial Orders mentioned above, the Committee urges the Government to avail itself of ILO technical assistance in this regard, before adopting the draft amendment, since the draft is inadequate. In the meantime, it asks the Government to review its approach regarding restrictions on women’s employment in light of the above principles to ensure that any protective measures taken are strictly limited to maternity protection, in the strict sense, or based on occupational safety and health risk assessments and do not constitute obstacles to the employment of women, in particular to their access to posts with career prospects and responsibilities. The Committee asks the Government to provide information on any development in this regard.*

The Committee is raising other matters in a request addressed directly to the Government.

Barbados

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1974)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Articles 1 and 2 of the Convention. Equal remuneration for work of equal value. Legislation. In previous comments, the Committee noted the absence of a legislative framework supporting the right to equal remuneration for men and women for work of equal value. Having noted also that the existing mechanisms for collective bargaining and wage councils for wage determination did not seem to promote and ensure effectively this right, the Committee requested the Government to take measures to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The Committee notes from the Government’s report on Discrimination (Employment and Occupation) Convention, 1958 (No. 111) that the draft National Gender Policy, which includes a section on employment, is currently being reviewed by the relevant ministries but that the Employment (Prevention of Discrimination) Bill is yet to be adopted. The Committee once again recalls the particular importance of capturing in legislation the concept of “work of equal value” in order to address the segregation of men and women in certain sectors and occupations due to gender stereotypes. *In light of the ongoing legislative and policy developments on gender equality and non-discrimination, the Committee asks the Government to take the necessary measures to ensure that the principle of equal remuneration for men and women for work of equal value will be fully reflected in the National Gender Policy and in the Employment (Prevention of Discrimination) Bill, and to provide a copy of the policy and the new legislation, once adopted.*

Gender earnings gap and occupational segregation. The Committee notes from the statistics published by the Barbados Statistical Service (Labour Force Survey) that of all women employed in 2015, 52.4 per cent earned less than 500 Barbadian dollars (BBD) per week compared to 41.8 per cent of all men employed in that same year. Among those earning between BBD500 and BBD999 per week, men represented almost 56 per cent and women only 44 per cent. Among those earning between BBD1,000 and BBD1,300, women represented 46.6 per cent and men 53.1 per cent. Men also account for a little more than half of the workers (52.5 per cent) in the highest earnings group (over BBD1,300). The Committee further notes from the Labour Force Survey data for 2015 the persistent occupational gender segregation of the economy with women mostly employed as service workers and clerks while men are mostly employed as craft and related workers or plant and machine operators. When looking at economic sectors, women workers are highly represented in “Accommodation and Food Services”, and their numbers sometimes more than doubles or triples the number of male workers in “Finance and Insurance”, “Education” and “Human Health and Social Work”. Women are also over-represented among household employees. In contrast, men largely predominate in the “Construction” and “Transportation and Storage” sectors. The Committee further refers to its comments on Convention No. 111. *The Committee asks the Government to take measures to reduce the earnings gap between men and women and to increase the employment of women in jobs with career opportunities and higher pay. Recalling that wage inequalities may arise due to the segregation of men and women into certain sectors and occupations, the Committee also asks the Government to provide information on the results achieved under the National Employment Policy and the National Gender Policy, once adopted, to address occupational gender segregation and to increase the employment of women and men in sectors and occupations in which they are under-represented.*

The Committee is raising other matters in a request directly addressed to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1974)

The Committee notes that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Articles 1–3 of the Convention. Legislative protection against discrimination. The Committee had previously noted that the Employment Rights Act 2012, while protecting workers against unfair dismissal on all the grounds enumerated in Article 1(1)(a) and certain additional grounds under Article 1(1)(b) of the Convention, did not ensure full legislative protection against both direct and indirect discrimination for all workers in all aspects of employment and occupation. The Committee previously asked the Government to address the protection gaps in the legislation. The Committee notes that the Government in its report merely restates the constitutional provisions on equality, and the protections afforded by the Employment Rights Act 2012. The Government also maintains that no distinctions, exclusions, or preferences based on the prohibited grounds set out in Article 1(1)(a) or on any additional grounds determined in accordance with Article 1(1)(b) exist in the country, and that no discrimination cases have been reported. Regarding the presumed absence of discrimination, the Committee considers that it is essential to acknowledge that no society is free from discrimination, and that continuous action is required to address

discrimination in employment and occupation, which is both universal and constantly evolving (see 2012 General Survey on the fundamental Conventions, paragraphs 731 and 845). *Noting that the Employment (Prevention of Discrimination) Bill 2016 is still in draft form, the Committee urges the Government to take steps, without further delay, to address the protection gaps in the legislation, and to ensure that the anti-discrimination legislation expressly defines and prohibits direct and indirect discrimination in all aspects of employment and occupation, for all workers, and on all the grounds set out in the Convention. The Committee also repeats its request to the Government to provide information on the steps taken to ensure that all workers are being protected in practice against discrimination not only with respect to dismissal but with respect to all aspects of employment and occupation, on the grounds set out in the Convention. Such measures could include public awareness raising aimed at, or in cooperation with, workers and employers and their organizations, or the development of codes of practice or equal employment opportunities guidelines to generate broader understanding on the principles enshrined in the Convention. Noting with regret that for several years the Government has not provided any information on the action taken to promote and ensure equality of opportunity and treatment with respect to race, colour and national extraction, and to eliminate discrimination in employment and occupation on these grounds, the Committee urges the Government to provide such information without delay, including any studies or surveys on the labour market situation of the different groups protected under the Convention.*

Article 1(1)(a). Discrimination on the grounds of sex. Sexual harassment. The Committee previously noted the absence in the Employment Rights Act 2012 of provisions protecting workers against sexual harassment. The Committee notes the Government's indication that the proposed Sexual Harassment in the Workplace Bill will define and prohibit both quid pro quo and hostile environment sexual harassment and provide for a tribunal to hear complaints and determine matters related to sexual harassment. *The Committee urges the Government to take steps to ensure that the draft Sexual Harassment in the Workplace Bill is adopted speedily and that it will define and prohibit sexual harassment (both quid pro quo and hostile environment harassment) in all aspects of employment and occupation, and asks that the Government provide a copy of the latest version of the Bill, or as enacted, with its next report.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Burundi

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1993)

The Committee notes the observations from the Trade Union Confederation of Burundi (COSYBU), which were received on 30 August 2018. *It requests the Government to provide its comments thereon.*

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

The Committee notes the observations on the application of the Convention made by the Trade Union Confederation of Burundi (COSYBU), which were received on 26 November 2015.

Article 1(1)(a) of the Convention. Discrimination on the basis of sex or gender. Gender-based violence. The Committee notes with *interest* the adoption of Act No. 1/13 of 22 September 2016 concerning the prevention and suppression of gender-based violence and victim protection, which defines and punishes, inter alia, the concept of gender-based violence, including sexual violence, sexual harassment, gender-hostile traditional practices and economic violence, which is defined as denying a spouse access to family resources or forbidding a spouse to work. The Committee also notes that, under section 14, any employees who are victims of gender-based violence in or outside the workplace have the right, at their request and subject to a doctor's approval, to a temporary reduction or reorganization of hours of work, to a geographical transfer, to assignment to another workplace, to the suspension of their employment contract (following which employees can resume their contracts) and to resignation without notice. In this respect, the Committee would like to draw the Government's attention to the fact that resignation with or without notice must not be used in practice as the only means of ending the violence and obtaining compensation but rather should be a last resort since this would amount to punishing the victims through the loss of their jobs (double penalty). The Committee notes that Act No. 1/13 also provides that "any employer who violates the rights of a person on the basis of his/her sex which are set down in the Labour Code and its implementing regulations, shall be liable to a fine of 500,000 to 1 million Burundian francs". *The Committee asks the Government to provide information on the following points:*

- (i) *the implementation and application in practice of Act No. 1/13 of 22 September 2016 with regard to employment and occupation, indicating the number and type of cases of gender-based violence dealt with by the labour inspectorate and the courts and also the penalties imposed;*
- (ii) *the steps taken or contemplated to inform and raise the awareness of employers, workers and their respective organizations, labour inspectors, judges and also the general public as regards action against gender-based violence, including the steps taken to publicize the content of Act No. 1/13; and*
- (iii) *the activities of the Independent National Human Rights Commission (CNIDH) against gender-based violence in employment.*

In addition, the Committee asks the Government to indicate whether it envisages carrying out an inventory of laws that are discriminatory towards women in order to bring them into line with the Constitution and ratified international instruments, as recommended by the CNIDH.

Sexual harassment. The Committee recalls that section 563 of the Penal Code, as amended in 2009, includes a provision defining sexual harassment as "the act of subjecting another person to orders, threats or physical or psychological coercion, or serious pressure, with a view to obtaining favours of a sexual nature by abusing the authority inherent in his or her functions", but does not cover either hostile work environment sexual harassment or acts committed by a work colleague or a person connected to the job (such as a customer or supplier). The Committee notes that Act No. 1/13 of 2016 defines sexual harassment as "any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, whether between equals or in a hierarchical situation; the act of subjecting another person to orders, threats or physical or psychological coercion, or serious pressure, with a view to obtaining favours of a sexual nature by abusing the authority inherent in his or her functions". The Committee observes that this

definition covers more forms of sexual harassment, including sexual harassment by a person who has no hierarchical connection with the victim. However, it notes that this definition does not cover the concept of a hostile, offensive or humiliating work environment created by certain forms of conduct with sexual connotations. *While noting in particular the progress achieved through the adoption of Act No. 1/13 of 2016, the Committee asks the Government to examine the possibility of expanding the definition of sexual harassment by adding the notion of a hostile, offensive or humiliating work environment, and asks it, in the absence of any specific provision towards this end in the Act of 2016, to specify the procedure to be followed and the penalties that apply in cases of sexual harassment. The Committee also asks the Government to provide information on the practical steps taken to prevent and eliminate sexual harassment in the public and private sectors, including measures designed to raise the awareness of employers, workers and their respective organizations with regard to the prevention and treatment of sexual harassment.*

Article 2. Equality of opportunity and treatment for men and women. The Committee notes that, according to the National Employment Policy Paper of 2014, some progress has been made on equality but profound inequalities persist in terms of access to initial employment and to managerial posts and as regards conditions of work. These inequalities are due to various forms of discrimination and the social distribution of labour and the exclusive role of women in the area of childcare and domestic tasks. In this regard, the Committee notes that the National Employment Policy states that it will be necessary to encourage enterprises to take steps to achieve a better balance between work and family life and to improve women's access to productive resources. It also provides for the possibility of establishing a 30 per cent quota for women at all hierarchical levels in the public and semi-public administration on a trial basis, and also for the use of anonymous employment resumés and the promotion of vocational training.

The Committee further notes that Act No. 1/13 of 2016 provides that the Government must formulate and implement a gender policy, submit a report on its implementation to the National Assembly (sections 3 and 4) and adopt awareness-raising measures to "modify structures and models of sociocultural behaviour for men and women to eliminate customary or other practices based on the notion of the inferiority or superiority of either sex or stereotypical roles of men or women" (section 5). The Act establishes the obligation for parents or any other persons in charge of children to give equal treatment to boys and girls in all aspects of life and to protect them against any gender-based violence (section 8). Public authorities must take steps to give girls and boys equal access to education, and school directors must ensure that single mothers' right to education is respected. In this regard, the Committee notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations, welcomed the measures adopted by Burundi to increase the school enrolment and retention rates for girls, including the adoption of a policy on the reintegration of girls into school after pregnancy (CEDAW/C/BDI/CO/5-6, paragraph 34). *While welcoming all of these provisions and measures, the Committee asks the Government to provide information on their implementation in practice and the results achieved, including with regard to increasing the rate of school enrolment and vocational training for girls and improving women's access to productive resources and to employment including to managerial posts in the public and private sectors. The Committee also asks the Government to indicate whether a new national gender policy, replacing the one adopted in 2012, has been formulated and, if so, to provide details on those sections relating to gender equality in employment and occupation.*

Indigenous peoples. The Committee recalls that it has been drawing the Government's attention for a number of years to the stigmatization and discrimination faced by the Batwa people and notes that the Government's report does not contain any information on this matter. The Committee notes that, in their respective concluding observations, CEDAW emphasizes that access to education for Batwa girls is very limited (CEDAW/C/BDI/CO/5-6, 25 November 2016, paragraph 34(b)) and the United Nations Committee on Economic, Social and Cultural Rights expresses concern at the lack of effective measures for combating the discrimination faced by the Batwa, particularly with regard to ensuring the effective exercise of their economic, social and cultural rights (E/C.12/BDI/CO/1, 16 October 2015, paragraph 15). *The Committee urges the Government to take the necessary steps to ensure equal access for the Batwa people to education, vocational training and employment, including to enable them to exercise their traditional activities, and also steps to combat stereotypes and prejudice against this indigenous community and to promote tolerance among all sections of the population. The Committee also asks the Government to provide information on the impact of Act No. 1/07 of 15 July 2016 revising the Forestry Code, which provides that the rational and balanced management of forests is based, inter alia, on the principle of participation by the grassroots communities, and on the exercise of traditional activities by the Batwa on the land where they live.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Chad

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1966)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 1(1)(a) of the Convention. Grounds of discrimination. The Committee notes that, according to the Government, the new draft Labour Code has been validated by the High Committee for Labour and Social Security and will be forwarded to the Council of Ministers in the near future. The Government adds that the Committee's comments have been taken into account and that the draft text has been amended accordingly. *The Committee hopes that the Government will soon be in a position to report on the adoption of the new Labour Code and requests it to ensure that it contains provisions explicitly prohibiting any direct or indirect discrimination based, as a minimum, on all the grounds enumerated in Article 1(1)(a) of the Convention, including national extraction and social origin, at all stages of employment and occupation. The Committee requests the Government to provide a copy of the Code as soon as it has been adopted, and of any implementing texts with respect to non-discrimination and equality in employment and occupation.*

Discrimination based on sex and equality of treatment between men and women. With reference to its previous observation, the Committee notes the Government's acknowledgement that section 9 of Ordinance No. 006/PR/84 of 1984, which gives the husband the right to object to his spouse's activities, is completely outdated. The Committee also notes the Government's indication that it will take measures to repeal this provision, which no longer corresponds to current realities. With

regard to discrimination against women in practice, the Government indicates that occupational segregation between men and women is, among other factors, due to the high levels of illiteracy and social rigidity. *The Committee once again requests the Government to take the necessary measures to formally repeal section 9 of the Ordinance of 1984 and to combat actively stereotypes and prejudices concerning the vocational capacities and aspirations of men and women. The Committee also requests the Government to carry out awareness-raising activities for parents and the population as a whole concerning the need for girls and boys to go to and remain in school, and to promote the access of girls and women to a broader range of training courses and occupations, particularly those that are traditionally male.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Chile

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1971)

The Committee notes the observations of the National Association of Fiscal Employees (ANEF), received on 1 September 2018. The Committee also notes the observations of the Single Central Organization of Workers of Chile (CUT-Chile) received on 2 September 2018 and those received on 13 September 2018. *The Committee requests the Government to provide its comments in this respect.*

Article 1(b) of the Convention. Work of equal value. Legislation. In its previous observation, the Committee noted that various draft laws were currently before the Senate and the Chamber of Deputies aimed at amending section 62 bis of the Labour Code – which requires the employer to comply with the principle of equal remuneration for men and women for work of equal value – to incorporate the principle of the Convention and ensure equal remuneration for men and women not only in situations in which they perform “the same work”, but also in situations in which they carry out work which is different but nevertheless of equal value, and requested the Government to provide information on any developments in this respect. The Committee notes the Government’s information in its report that a draft law to amend the Labour Code as it pertains to discrimination and equal remuneration between men and women (Bulletin No. 9322-13) is currently undergoing its second constitutional reading in the House of Representatives. The Committee notes that this draft law aims to amend section 62 bis of the Labour Code to expressly set out that “the employer shall comply with the principle of equal remuneration for men and women for the same work or work of equal value”. *The Committee trusts that section 62 bis of the Labour Code will be amended shortly and that it will give full effect to the principle of equal remuneration for men and women for work of equal value as set out in the Convention and requests the Government to provide information on any developments in that respect.*

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1971)

The Committee notes the observations of the Single Central Organization of Workers of Chile (CUT-Chile), received on 13 September 2018. *The Committee requests the Government to send its comments in this regard.*

Article 1 of the Convention. Grounds of discrimination. Legislation. The Committee recalls that, in its previous observation, it referred to Act No. 20609 of July 2012, establishing measures to combat discrimination, which does not include the grounds of colour, national extraction and social origin among the prohibited grounds of discrimination. However, these criteria are contained in section 2 of the Labour Code. In the same observation, the Committee noted the information on relevant case law provided by the Government, including the case law harmonization ruling of the Supreme Court of 5 August 2015, in which the Supreme Court extends the criteria of discrimination envisaged in the fourth subparagraph of section 2 of the Labour Code to all types of arbitrary discrimination and differences prohibited by article 19(16) of the Political Constitution (any discrimination that is not based on the capacity or suitability of the individual) and by the Convention, and states that the criteria of discrimination cannot claim to be exhaustive, as they are narrower than the protection afforded by the constitutional provision. While noting this information, the Committee asked the Government to provide information on the effect given in practice to Act No. 20609 and the case law harmonization ruling of the Supreme Court of 5 August 2015. The Committee notes that, in its report, the Government provides extensive information on court decisions on cases of discrimination that refer to section 2 of the Labour Code, including the ruling of the Supreme Court of 10 July 2015, issued in Case No. 24.386-2014, in which the Court reiterates that the list of grounds of discrimination prohibited in section 2 of the Labour Code “should not be regarded as exhaustive but, rather, as a list that specifies suspicious criteria the presence of which in the present case implies a violation of the mandate of non-discrimination at work contained in article 19(16) of the Fundamental Charter”. The Committee also takes note of Act No. 20940 modernizing the labour relations system, published on 8 September 2016, which extends the list of grounds of discrimination contained in section 2 of the Labour Code. It notes with *interest* that this Act adds the following grounds in relation to *Article 1(1)(b)* of the Convention: socioeconomic situation, language, beliefs, participation in trade union organizations, family background, personal appearance, disease or disability. *While noting this information, and recalling the importance of guaranteeing that all persons have a clear legal basis for asserting their right to equality of opportunity and treatment in employment or occupation, the Committee once again requests the Government to: (i) clarify how the provisions of the Labour Code and Act No. 20609 are coordinated in practice in terms of the grounds*

established and the remedies available to victims of discrimination in employment and occupation; and (ii) send information on the application in practice of Act No. 20609.

Discrimination based on sex. Legislation. The Committee recalls that it has been referring for many years to the need to amend section 349 of the Code of Commerce with a view to granting equal rights to spouses to conclude a commercial partnership agreement, so that women who when entering into marriage did not choose the separate property regime can conclude a commercial partnership agreement without the need for special authorization from their husband. In its previous observation, the Committee noted that section 5(5) of the Bill to amend the Civil Code and other legislation provides for the amendment of section 349 of the Code of Commerce and removes the requirement for the authorization of the husband for a wife to be able to enter into a commercial partnership agreement, and asked the Government to send information on any developments relating to the adoption of the Bill. The Committee notes the Government's indication that the amendment of the marriage regime has been included in the Gender Equity Agenda presented by the President on 23 May 2018 and that the above-mentioned Bill to amend the Civil Code and other legislation is being processed. The Committee observes that, according to the website of the House of Representatives of Chile, the Bill is going through its second constitutional procedure in the Senate. ***The Committee requests the Government to provide information on the passage of the Bill and to supply it with a copy of the Act once it is promulgated.***

Sexual orientation. The Committee also notes with *interest* that Act No. 20940 of 2016 adds "sexual orientation" and "gender identity" as prohibited grounds of discrimination. ***The Committee requests the Government to provide information on the application of these provisions in practice.***

Article 2. Conditions of work and remuneration. In its previous observation, the Committee referred to the observations made by the Federation of Unions of Supervisors Rol A and Professionals of CODELCO Chile (FESUC), which refer to: (i) workers recruited by the enterprise after 2010, the majority of whom are women, receive lower pay and do not benefit from the same working conditions as those recruited previously; and (ii) the code of conduct of the enterprise, which discourages political activities by employees, even outside working time. The Committee noted the Government's reply and asked the Government to continue to provide information in this regard. The Committee notes the Government's indication that, according to the enterprise, its pay and benefits policy is based on objective criteria, according to the operational reality of each of its divisions, their size, productivity, and the conditions of the copper market. The enterprise indicates that one of the pillars of its Corporate Policy on People Management is "systems of compensation, benefits and recognition based on merit, and job evaluation systems that safeguard equality of opportunity, internal equity and external competitiveness" (pillar 6), and that remuneration is "agreed" by the primary unions that form FESUC and the various divisions of the enterprise. With respect to the situation of women workers in particular, the enterprise indicates that it has established a policy to close persistent gender gaps in the workplace and is making efforts to increase women's participation in the world of work and to promote the value of women's contribution to the productivity of enterprises. As a result of these efforts, the enterprise has four workplaces that have earned the Equal-Conciliation Seal (*Sello Iguala-Conciliación*) awarded by Chile's National Service for Women and Gender Equity. The enterprise adds that there are two industrial instruments in its divisions that are designed to ensure compliance with the policies for equality of treatment between men and women within the corporation: (i) Internal Regulations on Order, Health and Safety, which establish the right to equal pay and prescribe safeguard procedures for workers in the event of a violation; and (ii) an internal system through which workers or third parties may file complaints – which can be signed or anonymous – in the event of a violation of the legal regulations, policies, procedures, code of conduct or any other regulations applicable to the enterprise, its workers, its relations with contractors and with third parties. The enterprise reports that, at the date of issuance of the report, no discrimination-related infringements had been observed within its divisions. With regard to the enterprise's code of conduct, the enterprise points out that no complaints have been received regarding political activities. The Committee notes that, according to the Government, all of the above demonstrates that the enterprise respects the specific and non-specific labour rights of its workers, by applying the principle of equality of treatment and respecting the political rights of those who provide services to the corporation.

Pensions. In its previous comments, the Committee referred to the observations made by various social partners, according to which the current private pensions system, which is based on a fully funded system, discriminates against women through the use of differentiated mortality scales for men and women. It also noted the adoption on 29 April 2014 of Supreme Decree No. 718 creating the Presidential Advisory Commission on the Pensions System. The Committee observed that the proposals contained in the final report of the Presidential Advisory Commission of September 2015 included the elimination of the calculation of differentiated mortality scales by sex and their replacement by unisex scales based on a uniform calculation of life expectancy. The Committee asked the Government to provide information on: (i) the real impact of the use of differentiated mortality scales from their introduction up to the present time on the specific amounts of the benefits received by pensioners; and (ii) the action taken as a result of the final report of the Presidential Advisory Commission on the Pensions System in relation to the elimination of the calculation of differentiated mortality scales by sex. The Committee notes the Government's indication that the real impact of the use of differentiated mortality scales by sex cannot be assessed, as their use remains a proposed measure. Moreover, the Government reports that, on 1 July 2016, the authority responsible for monitoring pensions (*Superintendencia de Pensiones (SP)*) and the authority responsible for monitoring securities and insurance (*Superintendencia de Valores y Seguros (SVS)*) published new mortality scales, with the technical assistance of the Organisation for Economic Co-operation and Development (OECD)

and following consultations with the National Institute of Statistics (INE) and the Latin American and Caribbean Demographic Centre (CELADE). The Committee observes that General Regulations SP No. 162 and SVS No. 398 of 20 November 2015, issued by the authorities responsible for monitoring pensions and securities and insurance, which establish the mortality scales published in July 2016, provide for the use of five differentiated mortality scales by sex. The Committee notes, on the other hand, that a proposal to amend the national legislation on pensions has been presented to Congress. The Committee wishes to highlight that factors, such as a labour force participation rate for women that is considerably lower than the rate for men, the use of differentiated mortality scales by sex (instead of unisex mortality scales) and the absence of provisions which allow periods during which parental responsibilities are exercised to be included in the calculation of pensions, have a negative impact on women's pension levels, which is further aggravated in funded pension systems in which the amount of benefits depends on the contributions made by workers during their working lives. **The Committee urges the Government to take the opportunity presented by the legislative reform under way to ensure that unisex mortality scales are included and otherwise guarantee the principle of equality between men and women in terms of pensions, and requests the Government to provide information on any developments in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Congo

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1999)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Articles 1 and 2(a) of the Convention. Principle of equal remuneration for men and women workers for work of equal value. Laws and regulations. The Committee recalls that, since 2005, it has been drawing the Government's attention to the need to amend sections 80(1) and 56(7) of the Labour Code, which limit the application of the principle of equal remuneration to the existence of "equal working conditions, qualifications and output" (section 80(1)) or to "equal work" (section 56(7)), and do not reflect the notion of "work of equal value". The Committee notes that the Government reaffirms that amendments to sections 80(1) and 56(7) of the Labour Code are envisaged to ensure that the concept of "work of equal value" is binding. **Noting the Government's commitment, the Committee requests it to ensure, within the framework of the ongoing revision of the Labour Code, that the principle of equal remuneration for men and women workers for work of equal value set out in the Convention is set out in the Labour Code.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Articles 1–3 of the Convention. Protection against discrimination. Legislation. For many years the Committee has been emphasizing the shortcomings in the Labour Code and the General Civil Service Regulations regarding the protection of workers against discrimination, since these texts do not cover all of the grounds of discrimination or all the aspects of employment and occupation set out in the Convention. The Committee recalls that the Labour Code only covers the grounds of "origin", gender, age and status in relation to wage discrimination (section 80) and the grounds of opinion, trade union activity, membership or not of a political, religious or philosophical group or a specific trade union in relation to dismissal (section 42). The General Civil Service Regulations prohibit any distinction between men and women in relation to their general application and any discrimination on the basis of family situation in relation to access to employment (sections 200 and 201). The Committee notes the Government's indication that a preliminary draft of a new Bill amending and supplementing certain provisions of the Labour Code will take into account the grounds of discrimination set out in *Article 1(1)(a)*. **The Committee asks the Government to ensure that, within the framework of the ongoing revision of the Labour Code, discrimination on all of the grounds set out in the Convention is explicitly prohibited, as well as discrimination on any other grounds which it considers appropriate to include in the Code, at all stages of employment and occupation, including recruitment. The Committee also asks the Government to take the necessary measures to amend the provisions of the General Civil Service Regulations in order to ensure that civil servants are protected as a minimum in relation to the grounds set out in Article 1(1)(a) in respect of all aspects of employment, including recruitment and promotion. The Committee also requests the Government to provide information on any legislative developments in this respect.**

Article 1(1)(a). Discrimination based on sex. Sexual harassment. The Committee notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed deep concern at the high prevalence of violence against women and girls, especially sexual harassment at school and at work, the delay in adopting a comprehensive law to combat all forms of violence against women and the lack of awareness regarding this issue and of reporting of gender-based violence (CEDAW/C/COG/CO/6, 23 March 2012, paragraph 23). The Committee notes the Government's indication that, since 2011, the new draft Bill amending and supplementing certain provisions of the Labour Code has contained provisions against sexual harassment. **The Committee once again asks the Government to ensure that provisions covering both *quid pro quo* harassment and sexual harassment which creates a hostile, intimidating or offensive environment are adopted and that they protect the victims of sexual harassment and establish penalties for the perpetrators. The Committee also asks the Government to take steps, in collaboration with employers' and workers' organizations, to prevent and combat sexual harassment, such as awareness-raising measures for employers, workers and educators as well as for labour inspectors, lawyers and judges, and to establish information systems and complaints procedures which take into account the sensitive nature of this issue in order to bring an end to these practices and allow victims to exercise their rights without losing their jobs.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Democratic Republic of the Congo

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)

Articles 1 and 2 of the Convention. Equal remuneration for work of equal value. Definition of remuneration.

Legislation. For over 20 years, the Committee has been asking the Government to amend the Labour Code, in particular section 86 thereof, which provides for equal wages only for equal conditions of work, qualifications and output, in order to incorporate the principle of equal remuneration for men and women for work of equal value and to ensure that this principle applies to all components of remuneration as defined in *Article 1(a)* of the Convention. The Committee notes with *regret* that the Government has not taken the opportunity provided by the revision of the Labour Code in 2016 to bring it into line with the principle established by the Convention. The Committee wishes to recall that the full application of the Convention involves examining the issue of equality at two levels: first, at the level of the job (is the work of equal value?); and, second, at the level of the remuneration (is the pay received by women and men equal?). The concept of “work of equal value” is fundamental for enabling a broad scope of comparison between different jobs or types of work. It also enables a comparison not only of the same or similar work, but also of work done by women and men which is of an entirely different nature but nevertheless of equal value. Hence account can be taken of the fact that, in practice, certain jobs and occupations are held predominantly by women and others by men. Comparing the relative value of jobs in occupations which may involve different types of skills, responsibilities or working conditions, but which are nevertheless of equal value overall, is essential in order to eliminate pay discrimination resulting from the failure to recognize without gender bias the value of work performed by women and men. For example, the principle of equal pay for men and women for work of equal value has been applied in some countries to compare the remuneration received by men and women engaged in different occupations, such as wardens in sheltered accommodation for the elderly (predominantly women) and security guards in office premises (predominantly men); or school meal supervisors (predominantly women) and garden and park supervisors (predominantly men).

As regards the definition of the term “remuneration” established in *Article 1(a)* of the Convention, the Committee recalls that section 7.8 of the Labour Code as amended in 2016, still excludes health care, housing and housing allowances, transport allowances, statutory family allowances, travel costs and “emoluments granted solely to assist workers in performing their duties”. The Committee notes the Government’s indication in its report that the purpose of excluding these elements from the definition of “remuneration” is to make them non-taxable and that this exclusion therefore benefits the workers. The Committee recalls that a broad definition of remuneration is necessary since if only the basic wage were being compared, much of what can be given a monetary value arising out of the job would not be captured. Such additional components, which are often considerable and make up increasingly more of the overall earnings package, can give rise to inequalities in pay between men and women. The Committee considers that the non-taxation of the benefits referred to in section 7.8 is not incompatible with also ensuring that the definition of “remuneration” applies the principle of equal pay for men and women for work of equal value by including “the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment”. *The Committee requests the Government to take the necessary steps to revise the Labour Code in order to ensure that the principle of equal remuneration for men and women for work of equal value is explicitly included in it and that it applies to all components of remuneration as defined in Article 1(a) of the Convention. The Committee requests the Government to provide information on all measures taken in this regard.*

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)

Articles 1 and 2 of the Convention. Protection of workers against discrimination on all grounds covered by the

Convention in all aspects of employment and occupation. Legislation. Public and private sectors. As regards the civil service, the Committee notes with *interest* the introduction into Act No. 16/013 of 15 July 2016 issuing the staff regulations for state civil servants which repealed the previous law (Act No. 81/003 of 17 July 1981) of general provisions on discrimination, whereby “employees shall be able to perform without discrimination the jobs to which they are assigned” (section 19) and “there shall be no discrimination between candidates on grounds other than those specified or authorized by the legislation” (section 87). However, the Committee notes with *regret* that the Government has not taken the opportunity afforded by the adoption of Act No. 16/010 of 15 July 2016 (which amends and supplements Act No. 015-2002 that issues the Labour Code), to incorporate into the Code provisions defining and prohibiting any form of discrimination based as a minimum on all the grounds set out in the Convention and covering all aspects of employment and occupation, including recruitment. In this regard, it notes the Government’s indications that even though no new revision of the Labour Code is envisaged for the moment, it proposes to include the definition of direct and indirect discrimination in employment and occupation in national legislation, in conformity with the Convention. *The Committee*

once again asks that the Government adopt the necessary measures in the near future to ensure that all direct or indirect discrimination, based as a minimum on all the grounds set forth in the Convention and covering all aspects of employment and occupation, is defined and explicitly prohibited by the Labour Code. The Committee asks the Government to provide information on any procedure established to deal with cases of discrimination against public employees or candidates for a post in the civil service and on any case of discrimination which has been reported and dealt with.

Article 1(1)(a). Discrimination based on sex. Legislation. In its previous comments, the Committee urged the Government to take the necessary steps to address the inferior position of women in society. With regard to the legislation, the Committee underlined the discriminatory nature of sections 448 and 497 of Act No. 87/010 of 1 August 1987 issuing the Family Code, and section 8(8) of Act No. 81/003 of 17 July 1981 issuing the staff regulations of state civil servants, under which a married woman is obliged to obtain permission from her husband in order to work. The Committee notes with *satisfaction* that: (i) further to the adoption of Act No. 008 of 15 July 2016 amending the Family Code, section 448 has been amended and now provides that “spouses must agree on all legal acts in which they assume an obligation to perform a certain task” and, according to the new section 449 “in the event of a persisting disagreement, the spouse who suffers prejudice can seize the tribunal”; and furthermore, section 497, on goods the woman has acquired through the exercise of a profession, has been repealed; and (ii) further to the adoption of Act No. 16/013 of 15 July 2016 issuing the staff regulations for state civil servants, section 8(8) of the former regulations has been repealed and consequently the husband’s permission is no longer required in order for a woman to take up work (section 5 of the new regulations).

Moreover, the Committee notes with *interest* the adoption of Act No. 15/013 of 1 August 2015 on the implementation of women’s rights and gender parity, which aims, inter alia, to eliminate all forms of discrimination against women and to protect and promote their rights in all areas, inter alia, in the social, economic, political, administrative, cultural, judicial and safety-related spheres. The above-mentioned Act establishes the general legal framework enabling the adoption of specific measures to combat discrimination towards women and to promote gender equality. As regards discrimination, the Committee notes that the Act contains a definition of discrimination which reflects that in *Article 1(1)(a)* of the Convention. The Act also explicitly states that “discrimination between workers on the basis of sex, particularly on the grounds of marital status or family situation, or on the grounds of pregnancy is prohibited” (section 20). The Committee notes that “... the prohibition of all discrimination applies to any harmful practice connected in particular with recruitment, assignment of tasks, working conditions, remuneration and other social benefits, promotion and termination of the employment contract” (section 21). According to the Act, the State must take “steps to eliminate any practice that is harmful to the rights of women in respect of the ownership, management, administration, enjoyment and disposition of property” (section 9). It also provides that the State must take “appropriate measures to modify patterns and models relating to the socio-cultural behaviour of women and men, through education of the general public, in order to eliminate all harmful cultural practices and practices based on the notion of the inferiority or superiority of either sex or based on stereotypical assumptions concerning the roles of women and men” (section 24). Further, it prohibits all gender stereotypes or preconceptions at all levels of education, particularly in educational guidance and career choices (section 11). The Committee also notes that the United Nations Human Rights Committee, having emphasized the persistence of gender stereotyping in its recent concluding observation, asked the Government to take steps “to strengthen education and awareness-raising initiatives for the general public, including traditional leaders, to combat traditional practices that are discriminatory and harmful to women and to eliminate gender stereotypes on the subordination of women to men and on the respective roles and responsibilities of women and men in the family and society” (CCPR/C/COD/CO/4, 30 November 2017, paragraphs 15 and 16). *Considering that all these legislative provisions constitute significant progress in combating discrimination against women in education, vocational training and guidance, employment and occupation, the Committee asks the Government to adopt specific measures giving effect to Act No. 15/013 of 1 August 2015 on the implementation of women’s rights and gender parity, in order to eliminate all forms of discrimination, particularly measures aimed at eliminating all practices based on the notion of the inferiority or superiority of either sex, stereotypical notions on the roles of women and men, and gender stereotypes relating to education and educational guidance. The Government is also asked to provide detailed information on the steps envisaged to eliminate all practices that are harmful to women’s rights in relation to the ownership, management, administration, enjoyment and disposition of property, as provided for in the Act of 2015.*

Discrimination based on sex. Leave in the civil service. The Committee notes with *regret* that the Government has not taken the opportunity afforded by the adoption of Act No. 16/013 of 15 July 2016 issuing the staff regulations for state civil servants (which repeals the former regulations issued by Act No. 81/003 of 17 July 1981) to amend section 25(2), under which female employees who have taken maternity leave cannot claim their right to full annual leave during the same year. It observes that section 30 of the new regulations reproduces section 25(2) of the former regulations in an identical form. *The Committee asks the Government to take the necessary steps to amend section 30 of Act No. 16/013 of 15 July 2016 in order to abolish all discrimination on the basis of sex in respect of leave in the public service.*

Discrimination based on race or ethnic origin. Indigenous peoples. For a number of years, the Committee has highlighted the marginalization and discrimination of indigenous “pygmy” peoples in relation to the enjoyment of their economic, social and cultural rights, particularly with regard to access to education, health and the labour market, and has urged the Government to take measures to guarantee equality of opportunity and treatment for indigenous peoples in

employment and occupation. The Committee has in particular, referred to the concluding observations of the United Nations Committee on the Elimination of Racial Discrimination (CERD). The Committee notes with **regret** that the Government indicates once again that indigenous peoples benefit from all the rights guaranteed by the Constitution and that it refers to the Forestry Code of 29 April 2002 (sections 36–44), which, the Government states, guarantees to indigenous peoples and local communities the right to benefit fully from their forest resources and from socio-economic infrastructures that may result, where applicable, from a forestry concession contract concluded between the State and a logging company. Furthermore, the Committee observes that the Government does not mention anymore the bill aiming at ensuring the protection of indigenous peoples, which, according to its previous report, was under examination by Parliament. It also notes that the UN Human Rights Committee (HRC) has expressed concern at: “(a) the overall situation of insecurity and vulnerability of pygmy communities; (b) reports that these communities are discriminated against, particularly in the areas of health care and education; and (c) the State party’s position that indigenous peoples are subsumed under the category of “local communities” in legislation, particularly in the Forestry Code”. The HRC has also expressed concern at the delay in adopting the law on the rights of indigenous peoples and deplored the serious human rights violations and forced displacement suffered by “pygmy” communities in the province of Tanganyika (CCPR/C/COD/CO/4, 30 November 2017, paragraphs 49 and 50). In its 2012 General Survey on the fundamental Conventions, the Committee indicates that it strongly encourages countries to assess the situation in employment and occupation of all ethnic groups in their country, in particular indigenous and tribal peoples, and in the discrimination faced by them, and to supply such information in their reports under article 22 of the Constitution (paragraph 772). It also recalls that a true policy of equality must also include measures to correct de facto inequalities of which certain categories of the population are victims and take into account their specific needs. ***The Committee therefore once again urges the Government to take measures without delay, including through legislation: (i) to combat prejudices and stereotypes of which indigenous peoples are victims and to raise other population groups’ awareness of their culture and way of life so as to promote equality of treatment and mutual tolerance; (ii) to allow indigenous peoples access, on an equal footing with other members of the population, to all levels of education, vocational training and employment, and to resources, particularly land, which enable them to carry out their traditional and subsistence activities; and (iii) to ensure that members of indigenous peoples employed in agriculture are treated on an equal footing with other members of the population in terms of conditions of employment, including remuneration. The Committee asks the Government to indicate whether it still plans to adopt a law to protect indigenous peoples and, if so, to provide detailed information on the progress made in the legislative process and the contents of the bill.***

Article 1(1)(b). Legislation. Protection against discrimination. Dismissal. Recalling that section 62 of the Labour Code prohibits any dismissal on the grounds of race, colour, sex, marital status, family responsibilities, pregnancy, childbirth and the post-natal period, religion, political views, national extraction, social origin or ethnic group, the Committee notes with **interest** the incorporation of “real or perceived HIV/AIDS status” into this list of prohibited grounds, following the adoption of Act No. 16/010 of 15 July 2016 amending and supplementing Act No. 015-2002 issuing the Labour Code. ***The Committee asks that the Government provide information on any cases of dismissal based on the aforementioned grounds that have been dealt with by the labour inspectorate or the courts.***

The Committee is raising other matters in a request addressed directly to the Government.

Equatorial Guinea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)

The Committee notes with **deep concern** that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2008.

The Committee notes that the Government did not take the opportunity provided by the enactment of the Fundamental Act of Equatorial Guinea, on 16 February 2012, and of the General Labour Reforms Act (No. 10/2012), on 24 December 2012, to address the matters raised by the Committee.

Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. The Committee notes that section 15 of the Fundamental Act of 2012 (previously section 15 of the Fundamental Act of 1995) provides that any bias or discrimination on tribal, ethnic, gender-related, religious, social, political or any other similar grounds, when duly ascertained, is punishable by law. Further, under section 1(3)(d) of the General Labour (Reforms) Act of 2012 (previously section 1(4) of the General Labour Act, 1990) the State guarantees equality of opportunity and treatment in employment and occupation and provides that no one may be subjected to discrimination, that is, to any distinction, exclusion or preference on grounds of race, colour, sex, political opinion, national extraction, social origin or trade union affiliation. The Committee notes that while section 1(3)(d) of the General Labour (Reforms) Act of 2012, continues to omit reference to religion as one of the prohibited grounds of discrimination, that ground is included in section 15 of the Fundamental Act of 2012. The Committee recalls that where provisions are adopted in order to give effect to the principles in the Convention, they should include at least all of the grounds of discrimination laid down in ***Article 1(1)(a)*** (see 2012 General Survey on the fundamental Conventions, paragraph 853). ***The Committee therefore urges the Government to take steps to add the ground of “religion” to the list of prohibited grounds of discrimination at the earliest opportunity. The Committee once again asks the Government to provide information on the practical application of section 15 of the Fundamental Act of 2012, and of section 1(3)(d) of the General Labour (Reforms) Act of 2012, and to indicate whether any administrative or judicial decisions have been handed down concerning these provisions, and if so, to provide details thereof.***

Articles 1(1)(b) and 5. Other grounds. Special measures. The Committee notes that section 1(4) of the General Labour Act of 1990 (now section 1(3)(d) of the General Labour (Reforms) Act of 2012) makes provision for facilitating the recruitment of older workers and those with reduced working capacity. The Committee had previously requested a copy of the National Employment Policy (Reforms) Act No. 6/1999 of 6 December 1999. It notes that section 62 of the National Employment Policy Act No. 6/1992 of 3 January 1992, as amended by the National Employment Policy (Reforms) Act of 1999, provides for the adoption of governmental programmes aimed at promoting employment among workers facing obstacles to entering the labour market, especially young first-time jobseekers, women, men older than 45 years of age and persons with disabilities. **The Government is asked to supply information on the practical application of the abovementioned provisions as it relates to older workers, young first-time jobseekers, and persons with disabilities.**

Articles 2 and 3. National policy to promote equality of opportunity and treatment. The Committee recalls that discrimination in employment and occupation is a universal phenomenon that is constantly evolving, and that some manifestations of discrimination have acquired more subtle and less visible forms. It is therefore essential to acknowledge that no society is free from discrimination and that continuous action is required to address it. Moreover, the results achieved in the implementation of the national equality policy and programmes must be periodically assessed so that they can be adapted to the population's needs, particularly for those groups that are most vulnerable to discrimination (see 2012 General Survey, paragraphs 731 and 847). **The Committee asks the Government to indicate whether it has a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, and describe how it is implemented (legal procedures, practical measures, etc.) in each of the following spheres: (i) access to vocational training; (ii) access to employment and to particular occupations; (iii) terms and conditions of employment. The Committee asks the Government to take specific steps with a view to assessing the results of the implementation of the national equality policy and to provide information on its impact on the different sections of the population and to supply statistical data disaggregated by sex, race, ethnic origin and religion on employment and vocational training and any other information which would enable the Committee to evaluate more fully the manner in which the Convention is applied in practice.**

Article 4. Measures affecting individuals suspected of activities prejudicial to the security of the State. **The Committee once again asks the Government to provide information concerning the practical application of Article 4 of the Convention, as well as specific information on the procedures establishing the right to appeal to a competent and independent body.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Fiji

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments initially made in 2015.

Article 1(b) of the Convention. Work of equal value. Legislation. The Committee recalls that section 78 of the Employment Relations Promulgation (ERP) of 2007 does not give full legislative expression to the principle of the Convention as it restricts the comparison of remuneration to men and women holding the "same or substantially similar qualifications" employed in the "same or substantially similar circumstances". The Committee notes the Government's indication that a bill to amend the ERP is before the Parliamentary Standing Committee on Justice, Law and Human Rights. However, the Committee notes with *regret* that the proposed amendments to section 78 continue to restrict equal remuneration to "persons of the same or substantially similar qualifications employed in the same or substantially similar circumstances". The Committee recalls that equal pay legislation should not only provide for equal remuneration for equal, the same or similar work, but should also address situations where men and women perform different work, requiring different qualifications and involving different circumstances, that is nevertheless work of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 673). **The Committee urges the Government to take these comments into account and make the necessary changes to section 78 of the ERP so as to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, and to provide information on the progress made in this respect.**

The Committee is raising other points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)

The Committee notes with *regret* that the Government's report does not reply to the issues raised in the Committee's previous observation. It must therefore repeat its previous comments initially made in 2012.

Follow-up to the conclusions of the Conference Committee on the Application of Standards (International Labour Conference, 100th Session, June 2011)

In its previous observation and in the absence of a report, the Committee recalled that a discussion has taken place in the Conference Committee on the Application of Standards in June 2011. In the resulting conclusions, the Conference Committee urged the Government to ensure that the principles contained in the People's Charter for Change, Peace and Progress adopted in 2008 were translated into concrete action, and called upon the Government: (i) to amend or repeal all racially discriminatory laws and regulations, including the Education (Establishment and Registration of Schools) Regulations, 1966; (ii) to effectively address discriminatory practices; and (iii) to ensure equality in employment, training and education for all persons of all ethnic groups. The Conference Committee also addressed the right of government employees to non-discrimination and equality in employment, as well as the low labour force participation of women, and asked that measures be taken. The Conference Committee also noted concerns regarding the difficulty in exercising the right to freedom of association in the country, and called on the Government to establish the conditions necessary for genuine tripartite dialogue, with a view to addressing the issues related to the implementation of the Convention. **The Committee notes that the Government has not replied to the latter point and asks the Government to provide specific and detailed information in this regard.**

Article 1(1) of the Convention. Protection against discrimination. Public service. Legislation. The Committee recalls that further to the adoption of the Employment Relations (Amendment) Decree 2011 (Decree No. 21 of 2011) on 13 May 2011,

government employees, including teachers, were excluded from the scope of the Employment Relations Promulgation of 2007 (ERP) and thus from its non-discrimination provisions. As regards employees excluded, and in general persons employed in the public service, the Committee welcomes the adoption of the Public Service (Amendment) Decree 2011 (Decree No. 36 of 2011) on 29 July 2011, which inserts in the Public Service Act 1999 new Parts 2A and 2B respectively on Fundamental Principles and Rights at Work and Equal Employment Opportunities. The Committee notes that section 10B(2) prohibits, in all aspects of employment, discrimination based on ethnicity, colour, gender, religion, national extraction and social origin, omitting however, political opinion. The Committee notes that section 10C on prohibited grounds of discrimination, whether direct or indirect, also refers to all the grounds of *Article 1(1)(a)* of the Convention except for political opinion. The Committee recalls that where legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination specified in *Article 1(1)(a)* of the Convention. **The Committee requests the Government to take the necessary measures to include political opinion among the prohibited grounds of discrimination listed in the Public Service Act 1999. The Committee also requests the Government to indicate how public service employees and applicants to public service employment are protected against discrimination based on political opinion in practice.**

The Committee recalls that the Conference Committee noted that section 3 of Decree No. 21 of 2011 prohibits any action, proceeding, claim or grievance “which purports to or purported to challenge or involves the Government ... , any Minister or the Public Service Commission ... which has been brought by virtue of or under the [Employment Relations Promulgation]” and that it urged the Government to ensure that government employees had access to competent judicial bodies to claim their rights and to adequate remedies. **While noting the Government’s indication regarding the jurisdiction of the High Court to hear any application for judicial review of the decisions of the Public Service Commission concerning termination of government employees, the Committee asks the Government to provide detailed information on the procedure and means of redress available to workers excluded from the scope of the ERP, alleging discrimination in employment or occupation which purport to challenge or involve public authorities. The Government is requested to provide information on the number of complaints submitted, the grounds invoked, the remedies granted and the sanctions imposed.**

Article 1. Equal access to education and vocational training. In its previous comments, the Committee noted that the education system was to undergo an extensive reform and requested the Government to indicate whether the Education (Establishment and Registration of Schools) Regulations, 1966, which provide that in the admission process preference may be given to pupils of a particular race or creed, was still in force. According to the Government’s report, a draft Education Decree that will repeal the Education Act and all its subordinate legislation, including the 1966 Regulations, is being prepared. The Committee recalls in this regard that access to education and to a wide range of vocational training courses is of paramount importance to achieving equality in the labour market (2012 General Survey on the fundamental Conventions, paragraph 750). **The Committee trusts that the Government will take the necessary measures to ensure the equal access of boys and girls, men and women from all ethnic groups to education and vocational training, and asks the Government to provide information on the measures taken to implement the reform of the educational system, including the adoption of the new Education Decree, and the results achieved. It requests the Government to clarify whether under section 26(3) of the draft Education Decree, the grounds of race, age, disability or religion can still be invoked, possibly in combination with other grounds, as one of the reasons to deny admission to school and to specify the grounds, if any, on the basis of which admission may be denied. The Committee reiterates its previous request for statistical information on the number of schools still applying race or creed as an admission requirement as well as the number of pupils enrolled in these schools.**

Article 2. National policy to promote equality of opportunity and treatment irrespective of race, colour and national extraction. In its previous comments, the Committee noted the adoption on 15 December 2008 by the National Council for Building a Better Fiji (NCBBF) of the Peoples’ Charter for Change, Peace and Progress, which aims to build a society based on equality of opportunity for all Fiji citizens and on peace. It further noted that the Charter also contains specific measures concerning indigenous peoples and their institutions and that a number of recommendations were made by the NCBBF, such as the need to promulgate legislation prohibiting discrimination based on race, religion and sexual orientation, as well as legislation protecting the rights of ethnic minority groups (Indians, Pacific Islanders, Chinese, European and landless Fijians), especially with a view to improving access to land. As far as implementation is concerned, the Committee notes from the Government’s report that racial and inappropriate categorization and profiling in government records are being removed, the education system is being reformed and the name “Fijian” is to be applied to all citizens of Fiji while the name “i-Taukei” is used to designate indigenous Fijians who represent around 60 per cent of the population of Fiji. **The Committee requests the Government to continue to provide information on the concrete measures taken to implement the Peoples’ Charter for Change, Peace and Progress with a view to prohibiting and eliminating discrimination, in particular racial discrimination, and to promote equal opportunities for all, including minority groups, in relation to access to education, vocational training, employment and various occupations. The Government is requested to provide information on any action or programmes undertaken by the Ministry for i-Taukei Affairs to promote equality in employment and occupation, including awareness-raising campaigns promoting tolerance between all components of the population.**

Affirmative action. The Committee notes the Government’s indication that it has decided to replace the old affirmative action scheme in favour of indigenous peoples by a new “action scheme across all the races based on a means test” as part of the reform undertaken to develop and implement inclusive, non-discriminatory and non-race based policies towards the goal of common citizenry. It further notes that scholarship schemes that used to be race-based have been discontinued. **The Committee requests the Government to provide detailed information on the new action scheme envisaged and its implementation in the fields of education, vocational training, employment and occupation, indicating how it intends to remedy de facto inequalities, redress the effects of past discriminatory practices and promote equal opportunities for all. Please specify if the new scheme provides for monitoring and assessment mechanisms.**

Gender equality. The Committee notes the statistics regarding the participation rate of women on a number of bodies, such as the Employment Relations Advisory Board (29 per cent), the National Occupational Safety and Health Advisory Board (13 per cent) and the Wages Councils (20 per cent). The Government states that it aims to reach a participation rate of 30 per cent of women on employment and industrial relations bodies. The Committee further notes that the statistical data on the labour force provided by the Government are not disaggregated by sex and therefore do not give sufficient information on the participation of women and men in the labour market. The Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), while welcoming the new Women’s Plan of Action (2010–19), again expressed concern at the persistence of practices and traditions, as well as strong patriarchal attitudes and deep-rooted stereotypes, regarding the roles, responsibilities and identities of women and men in all spheres of life. The Committee notes CEDAW’s concerns about the insufficient financial and human resources allocated to the national machinery for the advancement of women, as well as regarding the high number of women in the informal economy with no social security or other benefits and

the unequal de facto situation of rural women in terms of access to land and credit (CEDAW/C/FJI/CO/4, 30 July 2010, paragraphs 6, 16, 17, 20, 21, 28, and 30). *The Committee requests the Government to provide detailed information on the concrete measures taken to promote effectively gender equality in employment and occupation, in the framework of the new Women's Plan of Action or otherwise, including measures taken to address gender stereotypes and improve the access of women to occupations traditionally held by men, through education and training, as well as measures taken to improve the access of women to land and credit. It also requests the Government to indicate the measures taken to increase the participation of women on employment and industrial relations bodies, and the results achieved.*

Article 3(d). Promoting equality in employment under the control of a public authority. The Committee notes that in its most recent concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) drew the Government's attention to the under-representation of minorities in public services and to the need to assess the reasons for this phenomenon and address it effectively (CERD/C/FJI/CO/18-20, 31 August 2012, paragraph 12). *While noting the Government's general statement that all ministries are implementing the Equal Employment Opportunity Policy, the Committee requests the Government to provide information on concrete measures taken to ensure equality of opportunity and treatment of men and women from all ethnic groups in employment in the public service. Please also provide up-to-date statistics on the representation of men and women, from all ethnic groups, in the different categories, levels and grades in the public service.*

The Committee is raising other points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Finland

Workers with Family Responsibilities Convention, 1981 (No. 156) (ratification: 1983)

The Committee notes the observations of the Central Organisation of Finnish Trade Unions (SAK), the Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA), the Finnish Confederation of Professionals (STTK) and the Confederation of Finnish Industries (EK), integrated into the Government's report. With regard to EK's comments, whereby the Convention does not require equal distribution of family leave between men and women nor flexible working time solutions or work arrangements, the Committee emphasizes that the Convention aims to create effective equality of opportunity and treatment for men and women workers with family responsibilities and that the Committee examines the implementation of the provisions of the Convention both in law and in practice. In doing so, the Committee assesses to which extent the measures adopted are efficient in guaranteeing that persons with family responsibilities who are engaged or wish to engage in employment are able to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

Legislative developments. Prohibition of discrimination on the basis of family responsibilities. The Committee recalls its latest comment under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), in which it noted the entry into force of a new Non-Discrimination Act (1325/2014) on 1 January 2015. The Committee notes with *interest* that, in this new Act, the scope of the prohibition of discrimination has been expanded and now includes, *inter alia*, the ground of "family status" (section 8(1)). *The Committee requests the Government to provide information on the application of section 8(1) of the Non-Discrimination Act (1325/2014) in practice, including any judicial decision taken or any discrimination case filed with the Ombudsperson.*

Articles 3 and 4(b) of the Convention. National policy and leave entitlements. The Committee notes the Government's indication that legislative amendments concerning paternity leave, which entered into force on 21 December 2012, extended the length of such leave to nine weeks and the period during which the leave can be taken to two years after childbirth or placement in the case of adoption. The Government further indicates that, according to the National Social Insurance Institution, there was an increase of 11 per cent in the number of fathers receiving the parental allowance between 2014 and 2015 but that mothers are still the primary users of parental leave despite an increase in the use of the overall permitted parental leave by fathers which increased from 8.3 to 9.7 per cent in 2015 (it was 7.1 per cent in 2010). It adds that, as from 13 December 2013, a new flexible care allowance can be paid to parents who participate in the care of a child under 3 years of age and work no more than 30 hours per week on average. As of 18 March 2016, mothers no longer earn leave days for the whole period of parental leave but only for six months during this period. The Government explains that this is to promote a better distribution of parental leave between mothers and fathers by encouraging fathers to take part of the parental leave more frequently, allowing the mothers to go back to work earlier. In their comments, SAK, AKAVA and STTK regret, however, that the Government has decreased the income-based parental allowance and limited the accrual of annual leave during parental leave. They consider that these and other measures will, in practice, affect the status of women in the labour market as women still take 90 per cent of all the family leave allowance. The Committee notes that, in the country report the Government produced in May 2014 on the implementation of the Beijing Platform for Action (1995) and the Outcome of the twenty-third special session of the United Nations General Assembly (2000), it indicated that, since January 2014, care subsidy was paid also to parents working part time with the objective to encourage women with small children to return to work earlier and to urge both parents to share the child care. The Government indicated that one of the most difficult issues was to enhance the equal sharing of family leave between mothers and fathers. In this regard, the Committee notes that, in its final observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) regretted that the percentage of men who take

parental leave remained low and that family leave available to men and single parents remained considerably low. It recommended that the Government, inter alia, “continue efforts to ensure the reconciliation of family and professional responsibilities and promote the equal sharing of domestic and family tasks between women and men, including by developing incentives to encourage more men to avail themselves of parental leave” (CEDAW/C/FIN/CO/7, 10 March 2014, paragraphs 26 and 27(d)). The Committee further notes that the Government Action Plan for Gender Equality 2016–19 sets long-term and mid-term objectives and envisages a set of measures to be taken such as: (i) a lump-sum of €2,500 for employers to compensate costs incurred due to family leave; (ii) introducing more flexibility in the starting date of the maternity allowance period; (iii) fostering family-friendly practices in the workplace; and (iv) improving the possibilities for workers to take care of their relatives. ***The Committee asks the Government to continue to provide information on any legislative amendments or other measures with regard to the parental leave system (including on the implementation of the Government Action Plan for Gender Equality 2016-19) as well as statistical information relating to the use of parental leave by men and women. To ensure improved application of the Convention, the Committee requests the Government to provide more detailed information on the impact of the measures taken, in particular the decrease in the income-based parental allowance and limitation the accrual of annual leave during parental leave to which SAK, AKAVA and STTK refer, and their effect on the situation of women and the frequency of leave taken by men.***

Articles 7 and 8. Return to work, following family leave and protection from dismissal. In reply to the Committee’s request to provide information on the practical application and effects of the provisions concerned with the ability of workers returning from family leave to remain integrated in the labour force, the Government cites the Employment Contracts Act (55/2001), Chapter 4, section 9, according to which, at the end of a family leave, employees are entitled to return to their former duties. If this is not possible, employees shall be offered equivalent work in accordance with their employment contract; and if this is not possible either, other work in accordance with their employment contract. The Government adds that if it is not possible to offer an employee who returns from family leave any work that corresponds to the employment contract, the general provisions of the Act on terminating employment contracts and lay-offs, as well as the provisions on the related training and relocation obligations, are utilized when assessing the employer’s right to terminate or lay off the employee. It also refers to Chapter 7, section 9, of the Act which, not only, expressly prohibits termination of an employment contract on the ground of pregnancy or use of family leave but also reverses the burden of proof which is placed on the employer in case of dismissal. The Committee further notes that, in the previously mentioned country report of May 2014, the Government indicated that, according to studies, women faced discrimination at the workplace on grounds of pregnancy and family responsibilities. In this regard, the Committee recalls that, in its final observations, the CEDAW reiterated its concern regarding the illegal dismissal of women owing to pregnancy, childbirth and maternity leave and recommended that the Government “amend legislation to specifically prohibit employers from not renewing fixed-term employment contracts based on family leave and from limiting their duration on that basis” (CEDAW/C/FIN/CO/7, 10 March 2014, paragraphs 26 and 27(c)). The Committee notes the information provided by the Government concerning court decisions relevant to the principles covered in the Convention. ***The Committee requests the Government to provide information on any measures taken: (i) to examine the relevance of implementing awareness-raising measures to engender broader understanding by employers, workers and the general public, of the problems encountered by male and female workers with family responsibilities; and (ii) to prohibit the non-renewal or limitation of the duration of fixed-term contracts based on the mere basis of family responsibilities of the worker. It asks the Government to continue providing information on any relevant court decisions.***

The Committee is raising other matters in a request addressed directly to the Government.

France

Workers with Family Responsibilities Convention, 1981 (No. 156) (ratification: 1989)

Article 4 of the Convention. Leave entitlements. The Committee notes with ***interest*** that Act No. 2015-1776 of 28 December 2015 on adapting society to the ageing population has replaced the right to “family support leave” with “caregiver leave”, as direct kinship is no longer required. The Committee notes that Act No. 2014-873 of 4 August 2014 on real gender equality created the shared childcare benefit (PrePareE) to replace the free choice of activity supplement (CLCA) as from 1 July 2015, with a view to encouraging fathers’ involvement and making the impact of childcare on working life less disproportionate between mothers and fathers. The Committee nevertheless notes that, according to the 2017 report of the National Observatory for Early Childhood, at the end of 2016, only 4.4 per cent of recipients of the activity supplement were fathers and that the shared childcare benefit was not in fact shared, since the decrease in the payments linked to this benefit is particularly significant after 24 months, at the time when the benefit is to be shared between the mother and father.

Moreover, the Committee notes with ***interest*** that the abovementioned Act of 4 August 2014 has extended protection against dismissal following the birth of a child – from which only mothers previously benefited – to fathers, and that Act No. 2016-1088 of 8 August 2016 has extended this period of protection from four to ten weeks. The Committee notes the

study that was published in March 2016 by the Directorate of Research, Studies, Evaluation and Statistics (Drees), according to which 68 per cent of fathers with at least one child under 3 years of age who were eligible for paternity leave took such leave. Lastly, it notes the Government's indication that the Labour Code establishes several types of leave to enable employees – both men and women – to bear their family responsibilities while remaining in employment. Leave is available to employees: to undergo medical examinations during pregnancy and after childbirth; when a woman gives birth to a child; when a man fathers a child; when adopting a child; to take care of a child; to look after a child who is ill; to look after a child who is seriously ill, has a disability or has been the victim of an accident; for family events (weddings, deaths, births); to take care of a close relation suffering from a serious pathology or condition; and to take care of a close relation with a disability or loss of autonomy of a particularly serious nature. Acts Nos 2014-459 of 9 May 2014, 2014-873 of 4 August 2014 and 2016-41 of 26 January 2016 enable, respectively, employees to donate days of rest to a colleague whose child is seriously ill; the leave authorization granted to women for pregnancy check-ups to be extended to their spouse, civil-union partner or live-in partner; and a new leave authorization for employees who use medically-assisted procreation. ***The Committee requests the Government to continue to provide information on the number of men and women benefiting from the daily parental presence allowance and caregiver leave and on the number of employed fathers who have applied for and taken paternity leave (public and private sector employees and self-employed workers). The Government is requested to provide information on any evaluations of the payment of the new shared childcare benefit and its impact on families, as well as on any new measures to take into account the needs of workers with family responsibilities.***

The Committee is raising other matters in a request addressed directly to the Government.

French Polynesia

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

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

The Committee notes with *satisfaction* the adoption of territorial Act No. 2013-6 of 21 January 2013 concerning discrimination and harassment amending territorial Act No. 2011-15 (Labour Code of French Polynesia), and of territorial Act No. 2013-17 of 10 May 2013 amending Decision No. 95-215 AT of 14 December 1995, as amended, issuing the General Public Service Regulations of French Polynesia and relating to discrimination, harassment and protection of personnel. It notes that the new Acts significantly strengthen the protection of workers against discrimination by establishing a mechanism for prevention and for imposing penalties for both sexual and moral harassment.

Article 1 of the Convention. Protection against discrimination. Private sector. Legislative developments. The Committee notes that territorial Act No. 2013-6 expands the list of prohibited grounds of discrimination with the addition of the following new grounds: customs, sexual orientation or identity, age, genetic characteristics, actual or supposed membership or non-membership of a nation or race, activities in mutual benefit associations, physical appearance, family name, state of health or disability (section Lp. 1121-1 of the Labour Code of French Polynesia). The Committee notes that the prohibited grounds of discrimination covered by section Lp. 1121-1 are the same as those established by section L. 1132-1 of the Labour Code applicable in metropolitan France, with the exception of “place of residence” and “particular vulnerability resulting from the economic situation [of the person], which is apparent to or known by the person committing the discrimination”, which are grounds of discrimination that were introduced into the Labour Code in February 2014 and June 2016, respectively. The Committee also notes that the ground of “colour” referred to in *Article 1(1)(a)* of the Convention is covered by the ground of “physical appearance” and observes that the Government confirms that the term “origin” referred to in section Lp. 1121-1 of the Labour Code of French Polynesia refers to “national extraction” within the meaning of the Convention. The Committee notes, however, that despite the recent legislative progress, the ground of “social origin”, mentioned in *Article 1(1)(a)* of the Convention has not been included among the grounds of discrimination prohibited by section Lp. 1121-1 of the Labour Code of French Polynesia.

Moreover, the Committee notes that section Lp. 1121-2 has inserted in the Labour Code of French Polynesia a non-exhaustive list of aspects of employment, namely dismissal, remuneration, incentives or distribution of shares, training, reclassification, assignment, qualifications, classification, promotion, transfer and contract renewal, and access to internship or a training course in an enterprise. The Committee also notes that the section now refers explicitly to direct and indirect discriminatory measures. ***The Committee requests the Government to provide information on any measures taken with a view to inserting the ground of “social origin” in the list of the grounds of discrimination prohibited by the Labour Code of French Polynesia (section Lp. 1121-1) so as to cover all the grounds of discrimination enumerated in Article 1(1)(a) of the Convention. The Committee also requests the Government to indicate the measures taken to ensure that workers are protected in practice against discrimination based on this ground. In order to extend workers’ protection against discrimination and to align it to the anti-discrimination provisions applicable in metropolitan France, the Committee invites the Government to examine the possibility of adding “place of residence” and “particular vulnerability resulting from the economic situation [of the person], which is apparent to or known by the person committing the discrimination” to the list of grounds of discrimination which are prohibited by the Labour Code of French Polynesia, and requests it to provide information on any measures taken in this respect.***

Public sector. The Committee notes that territorial Act No. 2013-17 of 10 May 2013 expands the list of prohibited grounds of discrimination in respect of public service to include the following grounds: origin, sexual orientation or identity, age, family name, physical appearance, and actual or supposed membership or non-membership of a race (section 5). The Committee notes that the prohibited grounds of discrimination covered by section 5 are the same as those covered by section 6 of Act No. 83-634 of 13 July 1983 applicable in metropolitan France issuing the rights and obligations of officials, with the exception of “family situation”. The Committee notes however that despite the legislative progress made, the ground of “social origin” mentioned in *Article 1(1)(a)* of the Convention, is not included among the grounds of discrimination prohibited by section 5 of the General Public Service Regulations of French Polynesia. The Committee further notes that section 5 henceforth explicitly prohibits any

direct or indirect distinctions between civil servants. *The Committee requests the Government to provide information on any measures taken with a view to inserting “social origin” in the list of grounds of discrimination prohibited by section 5 of the General Public Service Regulations of French Polynesia so as to cover all the grounds of discrimination enumerated in Article 1(1)(a) of the Convention. The Committee also requests the Government to indicate the measures taken to ensure that public servants are protected in practice against discrimination on the basis of social origin. The Committee invites the Government to examine the possibility of adding “family situation” to the list of grounds of discrimination prohibited by this section and requests it to provide information on any measures taken in this respect. It further requests the Government to provide information on the reasons why, in French Polynesia, the list of grounds of discrimination prohibited in the public service (section 5 of the General Regulations) is more limited than the list applicable in the private sector (section Lp. 1121-1 of the Labour Code of French Polynesia) and invites it to harmonize the protection of public officials and private sector workers against discrimination in employment and occupation.*

Sexual harassment and moral harassment. Public and private sectors. The Committee notes the introduction of provisions concerning sexual harassment and moral harassment into both the Labour Code of French Polynesia (Lp. 1141-1 to 1141-12) and the General Public Service Regulations of French Polynesia. These provisions define and prohibit both quid pro quo and hostile working environment sexual harassment, and provide for the protection of victims and witnesses against any form of reprisal (sanctions, dismissal, direct or indirect discriminatory measures) and also for disciplinary sanctions against persons who commit harassment. The provisions also require the employer to take measures to prevent and address sexual or psychological harassment, including the establishment of a procedure, within the internal regulations, for reporting harassment and awareness-raising actions. *The Committee requests the Government to provide information on the application in practice of sections Lp. 1141-1 to 1141-12 of the Labour Code of French Polynesia and the provisions of the General Public Service Regulations of French Polynesia on sexual and moral harassment, especially with regard to the role of the inspection services in addressing sexual or moral harassment, and also on any procedure initiated on the basis of these provisions and its results.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

New Caledonia

Equal Remuneration Convention, 1951 (No. 100)

The Committee recalls that it asked the Government to reply in full to its comments. It notes with *regret* that the Government’s brief report only contains general information on equal remuneration and that it is identical to the report received in 2017, except for the information supplied concerning a conference on gender equality at work held in New Caledonia in April 2018.

Articles 1 and 2 of the Convention. Wage gap. The Committee notes that, according to the Government’s report, the average wage was 3.2 per cent higher for men than for women in 2015. The report also indicates that the higher the level of post, the greater the wage gap, with male managerial staff being paid on average 17.8 per cent more than female managerial staff. The Committee also notes that, according to the report on women’s employment published by the Mission for Women in 2016, women in the public sector are paid on average 15 per cent less than men. *The Committee requests the Government to continue providing recent data on remuneration for men and women and on the gender wage gap in the public and private sectors, if possible according to sector of activity and the hierarchical level of the posts held.*

Article 2. Equal remuneration for men and women for work of equal value. Measures to combat the gender wage gap. The Committee observes that the Government’s report merely refers once again to the regulatory framework applicable to equal remuneration for men and women (section Lp. 141 of the Labour Code of New Caledonia) and that the Government once again indicates that it has not taken any measures regarding equal remuneration for work of equal value. The Committee also recalls that, in its direct request concerning the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), it underlined the continuing precariousness of the situation of women and its negative impact on their education, training and occupational integration, the lack of sufficient action for indigenous women and the lack of information, education and communication activities to promote a change in attitudes towards women and girls. *Recalling that proactive efforts must be made to tackle gender wage gaps to achieve results in this area, the Committee requests the Government to take specific measures to promote equal remuneration for work of equal value, particularly in the areas of vocational guidance and training to combat occupational sex segregation, through awareness raising and training to combat social stereotypes regarding “male” and “female” jobs and by establishing schemes to enable both women and men to achieve a better balance between family life and work.*

Article 2(2)(c). Collective agreements. The Committee draws the Government’s attention to the fact that section Lp. 334-26 of the Labour Code referred to in its report refers to the provisions of collective agreements concerning mechanisms for applying the principle of “equal pay for equal work” and not the principle of “equal remuneration for work of equal value”, as laid down by section Lp. 141-1 of the Labour Code and by the Convention. *The Committee requests the Government to amend section Lp. 334-26 of the Labour Code by incorporating the principle of equal remuneration for work of equal value.*

Article 4. Cooperation with workers’ and employers’ organizations. The Committee notes that section Lp. 333-2(2°) of the Labour Code provides that “wage negotiations shall provide the opportunity for the parties to examine at the branch level at least once a year ... changes to average wages by professional category and by sex, if applicable by comparison with hierarchical minimum wages”. *The Committee requests the Government to indicate whether and how*

the issue of equal remuneration for men and women is addressed during wage negotiations and to clarify more generally in what manner it cooperates with the social partners to give effect to the principle of equal remuneration for men and women for work of equal value established by the Convention.

Awareness-raising measures with regard to the principle of the Convention. The Committee welcomes the holding of a conference on gender equality at work in the South Province in April 2018, which, inter alia, addressed the subject of pay equality with particular reference to the Convention. *In order to combat more effectively the underlying causes of pay inequalities, such as prejudicial and stereotypical attitudes towards women or occupational segregation, and to ensure a better application of the principle of the Convention in practice, the Committee strongly encourages the Government to continue its awareness-raising activities by focusing more on equal remuneration for men and women for work of equal value and ensuring that such activities are reproduced for workers and employers and their respective organizations, labour law enforcement officials and the general public.*

Enforcement. Labour inspection. The Committee notes that the Government's report indicates the penalties applicable for non-observance of the principle of "equal wages for equal work" but that it does not contain information on the work actually done by labour inspectors in this area. The Committee draws the Government's attention to the fact that it is a question of ensuring observance of the principle of "equal remuneration for work of equal value" as established by the Convention and not only for "equal work". *The Committee once again requests the Government to take the necessary steps to enable labour inspectors to perform their duties in terms of enforcing the labour legislation as it relates to equal remuneration for men and women for work of equal value (section Lp. 141-1 in conjunction with section Lp. 711-1 of the Labour Code of New Caledonia), and to provide information on measures taken in this respect, particularly as regards training for inspectors with regard to equal remuneration issues and the planning of inspection activities according to thematic areas (gender equality, pay equality).*

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

Article 1(1)(a) and (3) of the Convention. Prohibited grounds of discrimination and scope of application. Legislation. The Committee recalls that, in its previous comments, it highlighted that the prohibition of discrimination provided for in section Lp. 112-1 of the Labour Code of New Caledonia (CTNC) did not cover colour or social origin and requested clarifications regarding the scope of that section. The Committee notes the Government's confirmation in its report that the prohibition of discrimination covers all stages of employment, including sanctions and dismissal. Regarding the grounds of discrimination that are not covered, the Government indicates that the terms "race" and "origin", which are explicitly set out in section Lp. 112-1 of the CTNC, may be interpreted broadly by the Nouméa Labour Tribunal to protect workers against discrimination linked to their "colour" or "social origin". The Government adds that workers who are victims of discrimination on these grounds can assert their rights under section L. 225-1 of the Penal Code, which covers "physical appearance" and "the particular vulnerability arising out of the economic situation of the worker, apparent or known to the perpetrator of the discrimination", and which is applicable in New Caledonia. In this regard, the Committee would like to draw the Government's attention to the fact that criminal proceedings are not necessarily suitable to effectively combat and end discrimination in employment and occupation, particularly taking into account the sensitive nature of these issues and the characteristics of the criminal proceedings, for example in relation to the burden of proof and delays. The Committee also recalls that, when legal provisions are adopted to give effect to the principle of the Convention, they must cover as a minimum all the grounds of discrimination set out in *Article 1(1)(a) of the Convention*. *In order to enable workers to avail themselves of their right to non-discrimination on the basis at least of the grounds enumerated by Article 1(1)(a) of the Convention in the fields of employment and occupation and to avoid any legal uncertainty based on possible interpretations of legal provisions by courts, the Committee requests the Government to take the necessary measures to include "colour" and "social origin" in the list of prohibited grounds of discrimination set out in section Lp. 112-1 of the Labour Code of New Caledonia. In the absence of provisions to this effect in the labour legislation, the Committee also requests the Government to provide information on any proceedings undertaken on the basis of section L.225-1 of the Penal Code in the area of employment and occupation.*

Article 1(1)(b). Additional grounds of discrimination. Legislative developments. The Committee notes with interest the amendment to section Lp. 112-1 of the CTNC inserting the prohibition of any discrimination on the grounds of "the exercise of a customary responsibility", which followed the adoption of Territorial Act No. 2018-3 of 28 May 2018 establishing leave for customary responsibilities. However, the Committee recalls that, in its previous comments, it emphasized that the list of prohibited grounds of discrimination in metropolitan France under the Labour Code (section L. 1132-1) is more extensive than that provided for in the CTNC (section Lp. 112-1) and requested the Government to indicate the reasons for such a difference. The Committee notes the Government's indication that the labour legislation in New Caledonia, which is under the exclusive jurisdiction of this overseas territory, is developed taking into account the demands of the social partners, but that nothing prevents New Caledonia from adding to the list of prohibited grounds of discrimination set out in section Lp. 112-1 the other grounds covered by the Labour Code applicable in metropolitan France. *Noting that an evaluation report on the application of Territorial Act No. 2018-3 of 28 May 2018 establishing leave for customary responsibilities will be issued in a year, the Committee requests the Government to provide information on the findings of the report, particularly regarding any discrimination or obstacle to employment that workers could have faced as a result of exercising a customary responsibility. In light of the above, the Committee also requests the Government, in cooperation with the workers' and employers' organizations, to examine the possibility of*

adding to the list of grounds of discrimination prohibited in New Caledonia under the CTNC, in order to align it with the list of prohibited grounds of discrimination in metropolitan France under the Labour Code and thus to provide the same protection to all workers against discrimination in employment and occupation.

Article 2. Non-discrimination and equality of opportunity and treatment for men and women. The Committee recalls the concerns it expressed in its previous comments about the inequalities and discrimination that women suffer, particularly in employment and occupation. In that regard, the Committee notes that, according to a study entitled “The Labour Force in New Caledonia: 2017 Results”, women’s labour market participation is 12 points lower than that of men and, most importantly, half of women who wish to work do not enter the labour market, especially at the beginning of their family life. This data also shows that, while 57 per cent of Kanak women are active in the labour market (in comparison with 60.8 per cent of all women), their unemployment rate remains high at 21.3 per cent, compared with 13.4 per cent for all women. The Committee notes the Government’s indication that, in view of the persistent de facto inequalities between men and women in the world of work, a reform bill on occupational equality was developed by the Labour and Employment Directorate, in collaboration with the Observatory for Women’s Issues, and analysis was conducted on the measures to be taken to combat gender stereotypes and improve women’s access to the various occupations, particularly in rural areas. Furthermore, the Committee welcomes the organization by the Labour and Employment Directorate, in collaboration with the Observatory for Women’s Issues, of a conference on occupational gender equality, in April 2018, which addressed the issues of equality and the prohibition of discrimination against women, sexual and moral harassment, wage equality and protection for parents (workers with family responsibilities), in the South Province. The Government also indicates that the implementation is ongoing in the North Province of a multi-year plan (2014–19) comprising seven main themes, including action to combat all forms of discrimination against women. **Noting that this information appears to demonstrate a willingness to promote equality of opportunity between men and women, the Committee trusts that the analysis undertaken on this matter and the reform bill on occupational equality will quickly lead to specific measures and requests the Government to step up its efforts to raise the awareness of workers, employers and their organizations regarding the issues of equality and non-discrimination in employment and occupation, particularly in the framework of the multi-year plan. The Committee once again requests the Government to take the necessary measures, particularly in rural areas, to: (i) encourage women and girls to undertake training that offers genuine and diverse employment opportunities, particularly in the sectors and occupations traditionally occupied by men; (ii) ensure that women are more aware of their rights and the mechanisms in place to promote access to employment and the different occupations, at all levels of responsibility; (iii) combat gender stereotypes with regard to women’s aspirations, preferences and vocational skills, particularly through awareness-raising and information initiatives; and (iv) implement and develop mechanisms to allow men and women workers to better reconcile work and family responsibilities. The Government is requested to provide information on the measures taken in this regard and on the activities of the Mission for Women’s Issues in the South Province and the Observatory for Women’s Issues in the area of employment, and to continue to provide statistical data, disaggregated by sex, on employment.**

The Committee is raising other matters in a request addressed directly to the Government.

Gambia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) **(ratification: 2000)**

The Committee notes with **deep concern** that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2011.

Article 1(1)(a) of the Convention. Discrimination in employment and occupation. Legislation. The Committee previously pointed out that the provisions of the Constitution regarding discrimination did not include any reference to the prohibition of direct and indirect discrimination in employment and occupation and only concerned discriminatory treatment by public officials (section 33(3)). It also noted that the Labour Act 2007 neither defines nor prohibits discrimination in employment and occupation on the basis of any of the grounds enumerated in the Convention, except in the case of dismissal and disciplinary action (section 83(2)). The Committee notes that the Government provides no response to its request regarding the need to amend the legislation. The Committee recalls once again that, although general constitutional provisions regarding non-discrimination are important, they are generally not sufficient to address specific cases of discrimination in employment and occupation, and comprehensive anti-discrimination legislation is generally needed to ensure the effective application of the Convention, based on at least all the grounds of discrimination listed in *Article 1(1)(a)* and in all areas of employment and occupation. **The Committee asks the Government to take steps in order to include legislative protection against direct and indirect discrimination at all stages of employment and occupation based on, as a minimum, all of the grounds enumerated in the Convention, namely, race, colour, sex, religion, political opinion, national extraction and social origin. The Committee also asks the Government to include in legislation provisions establishing dissuasive sanctions and appropriate remedies in cases of discrimination. Please provide specific information on progress made in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Georgia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion at the Conference Committee on the Application of Standards at its 107th Session (June 2018) of the International Labour Conference and the conclusions adopted which called upon the Government to:

- (i) ensure that national legislation, in particular the Labour Code (2006), the Law on Gender Equality (2010), the Law on Elimination of All Forms of Discrimination (2014) and/or the Law on the Public Service (2015), expressly commits to the principle of equal remuneration for men and women for work of equal value in consultation with the social partners;
- (ii) implement effective enforcement and detection mechanisms to ensure that the principle of equal remuneration for men and women for work of equal value is applied in practice;
- (iii) take steps to raise awareness among workers, employers and their organizations of the laws and procedures available in order to allow them to avail themselves of their rights;
- (iv) continue to provide information on decisions handed down by the judiciary, and cases handled by the Office of the Public Defender;
- (v) continue to provide gender-disaggregated data on labour market participation and remuneration;
- (vi) provide the Committee of Experts with information related to the 2018–20 Georgian National Action Plan on Gender Equality adopted in May 2018 and its potential impact on the principle of equal remuneration for work of equal value in law and practice; and
- (vii) avail itself of ILO technical assistance in implementing these recommendations.

Articles 1 and 2 of the Convention. Legislation. For a number of years, the Committee has been raising concerns regarding the absence of legislation giving full expression to the principle of equal remuneration for men and women for work of equal value. In particular, the Committee recalls that section 2(3) of the Labour Code (2006), only contains a general prohibition of discrimination in labour relations; and that the Law on Gender Equality (2010) prohibits discrimination (section 6) and provides that “equality in evaluating the quality of work performed by women and men shall be maintained without discrimination” (section 4(2)(i)). Further, the Committee noted that the Law on the Elimination of All Forms of Discrimination, adopted on 2 May 2014, while including a general prohibition of discrimination based on sex, does not refer to the principle of equal remuneration for work of equal value; and that section 57(1) of the Law on the Public Service provides that the system of remuneration for public officials is based on the “principles of transparency and fairness, which means the implementation of equal pay for equal work”, which is narrower than the principle of the Convention.

The Committee welcomes the Government’s indication, in its report, that the Ministry of Labour, Health and Social Affairs is working, in cooperation with the social partners, on amending the relevant labour legislation to implement the EU Directive 2006/54/EC of 5 July 2006, which provides that, for the same work or for work of equal value, direct and indirect discrimination on grounds of sex with regard to all aspects and conditions of remuneration must be eliminated. The Committee also notes the Government’s indication that the second objective of the Gender Equality Council Action Plan 2018–20 is to eliminate legislative gaps and improve the legislative framework on gender equality. ***Recalling that the Convention has been ratified since 1993, the Committee trusts that the Government will endeavour to ensure, in cooperation with the social partners and the Council for Gender Equality, that the labour legislation is amended to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, with a view to ensuring the full and effective implementation of the Convention without delay. It also urges the Government to take the necessary steps to amend section 57(1) of the Law on the Public Service (2015) to capture the concept of “work of equal value” so as to ensure that public officials covered by the Law are entitled not only to equal remuneration for equal work, but also for work that is entirely different but nonetheless of equal value. The Government is requested to provide information on the progress achieved in this regard and a copy of the new relevant provisions once adopted.***

Article 2. Measures to address the gender pay gap and promote equal remuneration. Previously the Committee had noted, based on statistics provided by the Government, that a substantial gender gap in average monthly nominal wages existed in every sector of the labour market (36.9 per cent in 2014), including in female-dominated sectors such as education and health care, and that inequality existed with respect to the average salary distribution among men and women even with similar levels of education. With regard to measures taken to address the gender pay gap, the Committee noted the creation of an Inter-Ministerial Commission on Gender Equality and Women’s Empowerment in September 2015. While taking note of all this information, the Committee urged the Government to take measures to identify and address the underlying causes of inequalities in remuneration and to provide information on any awareness-raising activities to promote equal remuneration for work of equal value.

The Committee notes the updated data provided by the Government on the average monthly earnings of men and women workers disaggregated by sex and by economic activity from 2010 to the first quarter of 2018. From this information, the Committee notes that the gender pay gap remains high in nearly all sectors of activity. In particular it notes that in 2017, in the financial intermediation and the health and social work sectors, men earned on average significantly more than women (in financial intermediation, men earned 2,943 Georgian lari (GEL) while women earned GEL1,381; in health and social work, men earned on average GEL1,247 while women earned GEL866). The Committee notes the fifth objective of the Gender Equality Council Action Plan 2018–20 the aim of which is to raise awareness on gender equality through, among others, the organization of thematic public meetings in the different regions of the country, support awareness-raising activities on women's political participation, and strengthen cooperation and coordination with international networks and organizations working on gender equality and women's rights. In this regard, the Committee notes that the Government further indicates that in 2017, a working group on labour rights and gender equality was established at the Council for Gender Equality, and presented a list of recommendations to improve women's rights in the workplace, which included recommendations concerning equal pay. In addition, the Committee notes the Government's indication that the Council for Gender Equality is due to approve a State Concept on Gender Equality, a major guiding policy document on gender equality which will employ terms such as "equal pay for work of equal value". Finally, the Committee notes the Government's statement that the gender pay gap is not primarily conditioned by the law or regulations but by the traditional norms and attitudes towards women, obliging them to combine their household chores and career development. ***The Committee requests the Government to provide information on the specific measures taken or envisaged in the framework of the State Concept on Gender Equality and the Gender Equality Council Action Plan 2018–20 directly aimed at reducing the gender pay gap. Such measures, may include, for example, undertaking sensitization programmes and awareness-raising activities to overcome traditional stereotypes regarding the role of women in society or adopting measures on shared parental leave, and affordable and available childcare services. The Committee also encourages the Government to continue its efforts in identifying and addressing the underlying causes of inequalities in remuneration, such as gender discrimination, gender stereotypes, and occupational segregation and to promote women's access to a wider range of job opportunities at all levels, including top management positions and higher paying jobs. The Committee further requests the Government to provide detailed information on the awareness-raising activities undertaken specifically in the framework of the Gender Equality Council Action Plan 2018–20 to promote equal remuneration for work of equal value, including with respect to bonuses, premiums and other additional wage allowances. Finally, the Government is requested to continue to provide statistical data on men's and women's monthly and hourly wages and additional allowances, according to economic sector, as well as data on the number of men and women employed in these sectors.***

Enforcement. The Committee previously noted with concern the Government's indication that further to the abolition of the Labour Inspection Service in 2006, there was no longer a labour supervisory body. In its reply, the Government indicated that a National Programme for Monitoring Labour Conditions was approved by Ordinance No. 38 of 5 February 2015, and that by Ordinance No. 81 of 2 March 2015, a Department of Inspection of Labour Conditions was set up within the Ministry of Labour, Health and Social Affairs. The Committee further noted that the Office of the Public Defender had indicated that the Labour Code should be amended to address the non-binding nature of recommendations made by the inspection services. Therefore, the Committee once again stressed the need to put in place adequate and effective enforcement mechanisms to ensure that the principle of equal remuneration for men and women for work of equal value is applied in practice, and to allow workers to avail themselves of their rights.

The Committee notes that the Conference Committee expressed its concern over the abolition of the Labour Inspection Service and the absence of an equivalent replacement to ensure the enforcement of the rights and principles protected by the Convention. It notes the Government's indication in its report that it is committed to re-establishing a fully-fledged labour inspectorate by 2019. The Government further states that the new labour inspectorate will have the authority to conduct unannounced inspections in all enterprises, enforce all labour laws and levy sanctions on violators that are sufficiently dissuasive to deter future violations. The Committee also notes the Government's information according to which the courts have reported no cases regarding equal pay between men and women. In this regard, the Committee recalls that when no cases or complaints are being lodged it is likely to indicate a lack of an appropriate legal framework, lack of awareness of rights, lack of confidence in, or absence of practical access to procedures, or fear of reprisals (see 2012 General Survey on the fundamental Conventions, paragraph 870). ***The Committee therefore requests once again the Government to enhance the capacity of the competent authorities, including judges, labour inspectors and other public officials, to identify and address cases of pay inequalities between men and women for work of equal value, and also to examine whether the applicable substantive and procedural provisions, in practice, allow claims to be brought successfully. Further, while taking due note of the Government's indication that it intends to reinforce the powers of the labour inspectorate, the Committee requests the Government to provide information on how it ensures the effective enforcement of the principle of the Convention in practice, for example by including information on any activities of the Department of Inspection of Labour Conditions, including training of labour inspectors related to the principle enshrined in the Convention and on any violations detected. The Government is also requested to continue to provide any information on decisions handed down by the courts or other competent bodies with regard to this issue, as well as any cases regarding unequal remuneration handled by the Office of the Public Defender, which is mandated to examine complaints of sex discrimination and make recommendations.***

The Committee reminds the Government that it can avail itself of ILO technical assistance to these recommendations.

The Committee is raising other matters in a request addressed directly to the Government.

Germany

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)

The Committee notes the observations of the German Confederation of Trade Unions (DGB) of 5 December 2016.

Article 2 of the Convention. Legislation. Wage transparency. The Committee notes with *interest* the adoption of the Transparency in Wage Structures Act on 30 June 2017, which introduces an individual entitlement for employees in establishments with more than 200 employees to obtain information on the median monthly gross salary of at least six employees of the other gender who perform the same work or work of equal value, as well as on the criteria and procedure used for determining the remuneration. It notes that “equal work” is defined as identical or similar activity, and that “work of equal value” will be deemed to be conducted by women and men if taking into consideration the totality of the factors, such as the type of work, the training requirements and the working conditions, they can be seen as being in a comparable situation. In addition, according to the Act, private sector employers with more than 500 employees shall regularly report about the measures taken to promote gender equality and create equal pay for women and men in their company. Such employers are also encouraged, but not obliged, to use internal company evaluation procedures to assess their remuneration systems as well as the way in which they are applied, on a regular basis, to determine compliance with the equal pay requirements. The Committee also notes that the DGB criticizes the introduction of both thresholds and calls for compulsory internal company evaluation procedures. ***The Committee requests the Government to provide information on the practical implementation of the Transparency in Wage Structures Act, including data on the level of compliance with the statutory reporting requirement on gender equality and equal pay at the company level, information on sanctions imposed in cases of non-compliance, information on employers’ exercise of their entitlements to information and any follow-up measures taken based on the disclosure of this information, as well as information on any actions taken to address gender wage gaps revealed, and the impact thereof. It also requests the Government to provide information on the number of undertakings of more than 200 employees and of more than 500 employees in the country and on the proportion of the workforce covered by these undertakings.***

Assessment of the gender pay gap. The Committee notes the Government’s indication, in its report, that since 2002 the unadjusted wage differentials between men and women has remained virtually unchanged, as it was 21 per cent in 2017. It notes that the gender pay gap was 23 per cent in the private sector, against 9 per cent in the public sector, differentials being still substantially higher in the western part of Germany (23 per cent against 7 per cent in the new Länders). In 2016, pay differentials between women and men were still particularly wide in scientific and technical activities (31 per cent); financial and insurance services (28 per cent); as well as in information and communication (25 per cent) and manufacturing (25 per cent). The Committee notes the Government’s explanation that family-related career breaks have been identified as a particular cause of pay inequality and that, as a result, specific measures have been taken to better balance family responsibilities between men and women, including through the expansion of childcare services, the introduction of new family benefits (e.g. “Family Allowance Plus”), as well as through the implementation of several programmes, in collaboration with social partners, aimed at helping men and women return to work and promoting family-friendly working environments (e.g. “Back to Work Perspective” programme and “Success Factor Family” programme). The Government also indicates that, in order to fight against vertical segregation, a new Act on the Equal Participation of Women and Men in Leadership Positions in the Private and Public Sectors was adopted on 6 March 2015, with the objective of significantly increasing the proportion of women managers by introducing a mandatory 30 per cent gender quota, to be realized by 2016, for supervisory boards of more than 100 companies which are publicly listed and subject to parity co-determination (i.e. employees’ representation on their supervisory board). As of 2018, the proportion of women must be increased to 50 per cent. In addition, about 3,500 medium-sized companies are also required to set, by June 2017, their own targets for increasing the proportion of women on supervisory boards, executive boards and at the top management levels, which is considered by the DGB as being less successful. In accordance with the new legislation, the Federal Act on Gender Equality and the Federal Act on Appointment to Federal Bodies were revised to increase the proportion of women in leadership positions in the public sector. The Committee also notes that, in order to combat horizontal occupational segregation, the Government continued the Girls’ and Boys’ Days, introduced in 2011 to raise awareness on gender-stereotypical career choices, and that a new website was started in 2013 to give boys and girls opportunities to explore gender-related subjects (mytestingground 2.0). The Committee however notes with *concern* that, as highlighted by the DGB, the gender pay gap is still one of the highest in the European Union, being considerably higher than the average. It notes that, according to the most recent Structures of Earnings Survey, while three-quarters of the unadjusted gender pay gap can be attributed to structural differences, the remaining quarter cannot be explained by the characteristics relevant to the workplace. The Government states that when women have the same formal qualifications and otherwise identical qualities as men, the pay gap is still 7 per cent, which is a clear indication of latent discrimination against women in the labour market. The Committee further notes that the United Nations (UN) Committee on the Elimination of Discrimination Against Women (CEDAW), as well as the UN Committee on Economic, Social and

Cultural Rights (CESCR) expressed concern at the fact that the prevailing gender pay gap both in the public and private sectors continues to have a negative impact on women's career development and pension benefits owing to insufficient effective implementation of legislation on the principle of equal pay for work of equal value, as well as at the persistence of horizontal and vertical occupational segregation, the concentration of women in the lower-paying service sectors and precarious employment owing to their traditional role as caregivers for children and the underrepresentation of women in managerial positions in companies (E/C.12/DEU/CO/6, 12 October 2018, paragraph 38 and CEDAW/C/DEU/CO/7-8, 9 March 2017, paragraph 35). *While welcoming the measures implemented by the Government to combat vertical and horizontal occupational gender segregation of the labour market as a root cause of pay inequality between men and women, the Committee hopes that the Government will strengthen its efforts to eliminate the substantial gender pay gap which has remained at a high level for more than 15 years, in order to give its full application to the principle of equal remuneration between women and men for work of equal value, enshrined in its national legislation. The Committee requests the Government to continue to provide information on the specific measures implemented to reduce the gender pay gap both in the public and private sectors, and to address its underlying causes, including by combating occupational gender segregation as well as stereotypes regarding the roles of women and men. It also requests the Government to continue to provide statistical information on the distribution of men and women in the different sectors of the economy and occupational levels and their respective levels of earnings.*

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

The Committee notes the observations of the German Trade Union Confederation (DGB) of 5 December 2016.

Articles 2 and 3 of the Convention. Equality of opportunity and treatment irrespective of race, colour or national extraction. The Committee notes the Government's statement, in its report, that the situation of persons with a migrant background, which represented 20 per cent of the total population in 2015, has improved slightly but still remains difficult. It notes that in 2015, the average unemployment rate was 14.6 per cent for foreigners, against 5.6 per cent for German nationals. The Committee notes the Government's indication that several programmes focusing on persons with a migration background are being implemented in the framework of the National Action Plan on Integration (NAP-I) which aims at: (i) increasing their employment opportunities, including in the public sector, as well as their qualifications and competencies; (ii) ensuring that advisers in employment agencies, job centres and others involved in the labour market have intercultural and migration-specific competencies; and (iii) securing a basis of skilled workers and improving their workplace integration by promoting diversity at the company level. Referring to its previous comments concerning the 113 projects sponsored between 2012 and 2014 under the "XENOS-Integration and Diversity" programme with the aim of improving access for youth with a migrant background to education and employment, the Committee notes the Government's indication that alongside direct support for disadvantaged young people, this programme also contributed to create lasting changes in operational and administrative routine in human resources policy. It notes that the successful approaches from XENOS are being further developed as part of the European Social Fund (ESF) "Federal Integration Guidelines" Project for 2014–20. The Committee notes that while welcoming the efforts of the Government, the DGB considers that greater account should be taken of the gender perspective. It notes in this respect that the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW) highlighted that migrant and minority women continue to be at risk of experiencing multiple forms of discrimination in access to education and employment (CEDAW/C/DEU/CO/7-8, 9 March 2017, paragraph 43). The Committee also notes that several UN bodies recently expressed concern about the high representation of minorities, including Sinti, Roma, people of African descent and other minorities victim of multiple discrimination, such as Muslims, in lower level schools and in schools in marginalized areas and recommended that the Government increase the level of educational attainment of children of ethnic minorities, in particular by preventing their marginalization, and comprehensively address de facto segregation of those minorities in education, taking into account its close relation to discrimination in the field of employment (CERD/C/DEU/CO/19-22, 30 June 2015, paragraph 13; A/HRC/36/60/Add.2, 15 August 2017, paragraphs 85 and 89; and A/HRC/WG.6/30/DEU/2, 12 March 2018, paragraphs 40, 55 and 56). Specific concerns were also expressed about the persistent discrimination faced by those minorities in gaining access to work opportunities or to management positions (CERD/C/DEU/CO/19-22, 30 June 2015, paragraphs 14 and 17; A/HRC/36/60/Add.2, 15 August 2017, paragraph 42; and A/HRC/WG.6/30/DEU/2, 12 March 2018, paragraph 42). The Committee notes that, in the framework of the Universal Periodic Review, the UN Working Group also recommended that the Government should strengthen its efforts to improve the integration of minorities in the labour market (A/HRC/39/9, 11 July 2018, paragraph 155). *The Committee requests the Government to continue to provide information on the specific measures taken to prevent segregation and discrimination in education and employment of persons with a minority or migrant background including Sinti, Roma and people of African descent and to ensure them an improved access to education and employment opportunities, including through affirmative action measures, as well as the impact thereof. It further requests the Government to continue to provide information on the implementation of any programmes undertaken in that regard, including in the framework of the National Action Plan on Integration (NAP-I) and the ESF "Federal Integration Guidelines" Project for 2014–20, as well as a copy of the results of any relevant studies and reports evaluating their impact.*

Occupational segregation. The Committee notes the Government's indication that several policies and programmes are still implemented to fight horizontal occupational segregation and that a panel of experts was established in 2014, under the overall management of the Government and with the involvement of the Federal Employment Agency, with a view to achieving a shared understanding of gender neutral choice of occupations and studies, identifying appropriate means of implementation and monitoring impact. It notes however that, in its 2017 concluding observations, the CEDAW recommended that the Government address discriminatory stereotypes and structural barriers that may deter girls from progressing beyond secondary education and enrolling in traditionally male-dominated fields of study, such as mathematics, information technology and science (CEDAW/C/DEU/CO/7-8, 9 March 2017, paragraph 34). Referring to its previous comments on the low representation of women in leadership positions in the private sector, the Committee takes note with *interest* of the adoption of the Act on the Equal Participation of Women and Men in Leadership Positions in the Public and Private Sectors on 6 March 2015, introducing a mandatory 30 per cent gender quota, to be realized by 2016, for supervisory boards of more than one hundred companies which are publicly listed and subject to parity co-determination (i.e. employees' representation on their supervisory board). As of 2018, the proportion of women shall be increased to 50 per cent as far as bodies whose members are appointed by the federal Government are concerned. In addition, about 3,500 medium-sized companies are also required to set, by June 2017, their own targets for increasing the proportion of women on supervisory boards, executive boards and at the top management levels. In accordance with the new law, the Federal Act on Gender Equality and the Federal Act on Appointment to Federal Bodies were revised to increase the proportion of women in leadership positions in the public sector. The Government adds that support is provided to companies in this regard and thorough monitoring will be conducted every year by the Government to assess the impact of the Act. The Committee however notes that, according to the last European Commission country report on gender equality (2017, page 14), only 46 per cent of the companies fulfill the statutory gender quota for supervisory boards. It notes that the Federal Statistical Office considered, in 2017, that the proportion of women holding an executive position remained nearly unchanged in comparison with the previous two years, as it was 29.2 per cent which was still five percentage points lower than the European average. The Committee further notes that, in its 2018 concluding observations, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) expressed concern at the low representation of women in decision-making positions, particularly in the private sector, and at the ineffectiveness of the Act on the Equal Participation in this regard. It is concerned, in particular, that: (i) the statutory 30 per cent gender quota for supervisory boards, provided for in the Act, covers only 108 companies; (ii) a majority of those companies that are obliged to set targets for gender quotas under the Act have not done so; and (iii) sanctions for non-compliance are not effective (E/C.12/DEU/CO/6, 12 October 2018, paragraph 30). ***The Committee hopes that the Government will strengthen its efforts to effectively increase women's representation in decision-making positions, including in supervisory boards, both in the public and private sectors, and through an effective implementation of the Act on the Equal Participation of Women and Men in Leadership Positions. It requests the Government to continue to provide information on any difficulties identified in the implementation of the Act and sanctions imposed, as well as on any other measures taken to enhance women's representation in leadership positions. It further requests the Government to provide information on the measures taken to combat gender stereotypes regarding women's career aspirations and capabilities which contribute to their under-representation in traditionally male-dominated fields of study, including as a result of the recommendations made in 2014 by the panel of experts on gender neutrality on the choice of education and employment, and the impact thereof.***

The Committee is raising other matters in a request addressed directly to the Government.

Ghana

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1968)

The Committee notes with *regret* that, again, the Government's report contains no information regarding a number of its previous comments. The Committee wishes to reiterate that without the necessary information, it is not in a position to assess the effective implementation of the Convention, including the progress achieved since its ratification. ***The Committee hopes that the Government's next report will contain full information on the matters raised below.***

Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation. The Committee recalls that since the adoption of the Labour Act in 2003, it has been raising concerns regarding sections 10(b) and 68 of the Act, which are set out in terms that are more restrictive than the principle of the Convention, providing for equal remuneration for "equal work". The Committee notes with *concern* that the Government's report merely repeats its previous indication that "equal pay for equal work without distinction of any kind" under sections 10(b) and 68 of the Labour Act is synonymous with the principle of equal remuneration for men and women for work of equal value, but provides no details in support of this assertion and gave no indication that jobs of a completely different nature can be compared under the Act. The Committee emphasizes once more that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, and the promotion of equality. Due to historical attitudes and stereotypes regarding women's aspirations, preferences and capabilities, certain jobs are held predominantly or exclusively by women (such as in caring professions) and others by men (such as in construction). Often "female jobs" are undervalued in comparison with work of equal value performed by men when determining wage rates. The concept of "work of equal value" is fundamental to tackling occupational sex segregation in the labour market, which exists in almost

every country, as it permits a broad scope of comparison, including, but going beyond equal remuneration for “equal” work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraphs 672–679). **Consequently, the Committee once again urges the Government to take the necessary measures to amend sections 10(b) and 68 of the Labour Act of 2003, in order to give full legislative expression to the principle of equal remuneration for men and women for work of equal value set out in the Convention, and to provide information on any progress made in this regard.**

Equal remuneration for work of equal value in the public service. The Committee recalls that a public service pay policy setting out a single spine salary structure was previously adopted and that all public service employees were to be brought under this structure by the end of 2012. The Committee also recalls that the evaluation had been made on the basis of four main job factors (knowledge and skill, responsibility, working conditions and effort) which had been subdivided into 13 subfactors. The Committee notes the documentation provided by the Government in its report, including a table entitled “Single spine salary structure”, a memorandum of understanding between the Fair Wages and Salaries Commission and the social partners, and a White Paper on the single spine pay policy. It notes however that the table “Single spine salary structure” provided does not contain information on the types of jobs that fall within each level of pay and thus does not allow the Committee to assess whether the method of evaluation of jobs used is effectively free from gender bias. **The Committee therefore requests the Government to provide information on how it has classified jobs within the single spine salary structure, in order to allow it to assess the factors used to compare jobs and ensure that they are free from gender bias. Noting the absence of information provided in this regard, the Committee requests once more the Government to provide information on the progress made in covering all public service employees by the single spine salary structure, and how this has impacted on the relative pay of women and men in the public service. It also reiterates its request for specific information on the number of men and women at each level of the pay structure. Finally, the Committee reiterates its request to the Government to provide information on the practical application of this single spine salary structure, including on the issues dealt with by the Fair Wages and Salaries Commission and the steps taken by this Commission to ensure full application of the principle of the Convention in the public service.**

Article 2(2)(c). Collective agreements. For a number of years, the Committee has been commenting on collective agreements that contained provisions discriminating against women, in particular concerning the allocation of certain fringe benefits. The Committee notes that, once more, the Government’s report does not contain any specific information in response to the Committee’s requests in this regard. **Therefore, once again, the Committee urges the Government to take the necessary steps, in cooperation with employers’ and workers’ organizations, to ensure that provisions of collective agreements do not discriminate on the ground of sex. The Committee requests the Government to provide information on any measures taken or envisaged, in cooperation with employers’ and workers’ organizations, to promote the principle of equal remuneration between men and women for work of equal value, including objective job evaluation methods, through collective agreements. It also requests the Government to provide examples of collective agreements reflecting the principle enshrined in the Convention.**

Article 3. Objective job evaluation in the private sector. In its previous comments, the Committee requested the Government to take steps to promote objective job evaluation methods in the private sector to eliminate unequal pay between men and women. The Committee notes that the Government’s report is silent on this point. However, its notes from the sixth round of the Ghana Living Standards Survey, published in 2014, that the hourly earnings of men in the various occupational groups remain higher than those of women except for clerical support workers. The Committee recalls that the concept of “equal value” requires some method of measuring and comparing the relative value of different jobs. There needs to be an examination of the respective tasks involved, undertaken on the basis of entirely objective and non-discriminatory criteria to avoid the assessment being tainted by gender bias. While the Convention does not prescribe any specific method for such an examination, *Article 3* presupposes the use of appropriate techniques for objective job evaluation, comparing factors such as skill, effort, responsibilities and working conditions (see 2012 General Survey, paragraphs 695–703). **Consequently, the Committee once again requests the Government to take steps to promote objective job evaluation methods in the private sector to eliminate unequal pay, and to provide information on the progress made in this regard. Once more, it requests the Government to provide updated information on the gender pay gap in the private sector, including statistical information based on the results of the recent Ghana Living Standards Survey.**

Article 4. Tripartite cooperation. Noting the lack of new information provided in this regard, the Committee once again recalls the important role of the employers’ and workers’ organizations in promoting the principle of the Convention. **The Committee therefore requests the Government to provide specific information on the concrete steps and action undertaken to promote the principle of the Convention, and the results of such initiatives. The Committee also requests the Government to indicate whether equal remuneration between men and women has been discussed specifically within the National Tripartite Committee, and how the principle has been taken into consideration in the establishment of the minimum wage.**

Enforcement. In its previous comments, the Committee noted that the National Labour Commission and the Fair Wages and Salaries Commission deal with issues pertaining to grievances of workers, particularly those regarding equal remuneration and that an Alternative Dispute Resolution Centre, pursuant to the Alternative Dispute Resolution Act of 2010, serves as an additional forum to deal with complaints regarding remuneration. The Committee notes the

Government's repeated indication that there have been no cases brought forward on the issue of equal remuneration between men and women workers for work of equal value. In this regard, the Committee recalls that, where no cases or complaints, or very few, are being lodged, this is likely to indicate a lack of an appropriate legal framework, lack of awareness of rights, lack of confidence in or absence of practical access to procedures, or fear of reprisals (see 2012 General Survey, paragraph 870). **Therefore, the Committee requests the Government to take steps to raise awareness of the relevant legislation, to enhance the capacity of the competent authorities, including judges, labour inspectors and other public officials, to identify and address cases of discrimination and unequal pay, and also to examine whether the applicable substantive and procedural provisions, in practice, allow claims to be brought successfully. In addition, the Government is asked to provide information on any decisions by the courts, the National Labour Commission, the Fair Wages and Salaries Commission and the Alternative Dispute Resolution Centre or any other competent body, as well as on any violations identified by, or reported to, labour inspectors, relating to equal remuneration for men and women for work of equal value.**

**Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
(ratification: 1961)**

The Committee notes with **concern** that the Government's report once again contains no information in response to a number of its previous comments. The Committee wishes to reiterate that without the necessary information, it is not in a position to assess whether there is effective implementation of the Convention, including whether progress has been achieved since its ratification. **The Committee hopes that the Government's next report will contain full information on the matters raised below.**

Article 1 of the Convention. Prohibited grounds of discrimination. Previously, the Committee recalled that the term "social status", "politics" and "political status" set out as prohibited grounds of discrimination in sections 14 and 63 of the Labour Act of 2003 appear to be narrower than the terms "social origin" and "political opinion" enumerated in the Convention. It recalled that the prohibition of discrimination on the basis of political opinion, as contained in the Convention, should cover a worker's activities to express or demonstrate political views and that this protection is not exclusively limited to an individual's activities or position within a political party. Further, discrimination on the basis of social origin arises when an individual's membership of a class, a socio-occupational category, or a caste determines his or her occupational future either by denying him or her access to certain jobs or activities or, conversely, by assigning him or her certain jobs. The Committee notes that, in its report, the Government merely repeats its previous statement that the Committee's concerns have been communicated to the relevant agencies for appropriate action. Consequently, the Committee emphasizes once again that, where legal provisions are adopted to give effect to the principle of the Convention, they should include at least all the grounds of discrimination specified in *Article 1(1)(a)* of the Convention (see 2012 General Survey on the fundamental Conventions, paragraph 853). **The Committee urges the Government to take concrete steps to amend the Labour Act of 2003, so as to include at least all the grounds of discrimination specified in Article 1(1)(a) of the Convention, and to provide information on any progress made in this regard.**

Article 1(1)(a). Discrimination based on sex. Sexual harassment. The Committee recalls its previous comments in which it noted that section 175 of the Labour Act, defining sexual harassment, appears to cover only quid pro quo harassment, and not hostile environment sexual harassment. The Committee notes the Government repeated indication that steps have been taken with a view to preventing and combating sexual harassment at work including workplace inspections, and education and training programmes for employers' and workers' organizations, but that no complaints or reports concerning sexual harassment at the workplace have been brought before the competent authorities under the Labour Act, including the National Labour Commission. The Committee again recalls that the absence of complaints regarding sexual harassment does not necessarily indicate that this form of sex discrimination does not exist; rather, it is likely to reflect the lack of an appropriate legal framework, the lack of awareness, understanding and recognition of this form of sex discrimination among government officials, and workers and employers and their organizations, as well as the lack of access to or the inadequacy of complaints mechanisms and means of redress, or fear of reprisals (see 2012 General Survey on the fundamental Conventions, paragraph 790). **The Committee urges the Government to expand the definition of sexual harassment to explicitly cover hostile environment sexual harassment. The Committee also urges the Government to take concrete steps – for example in the form of seminars, guidance, training, etc. – aimed at achieving better knowledge and understanding of the existence of sexual harassment and the means of preventing and addressing it, among labour inspectors, judges and other relevant public officials, as well as employers, workers and their organizations, and to provide information on the progress achieved.**

Equality in employment without any distinction of race, colour, religion, or national extraction. The Committee notes with **regret** that the Government's report is once again silent on the issue of discrimination on the grounds of race, colour, religion, and national extraction. It recalls that, while the relative importance of the problems relating to each of the grounds may differ for each country, when reviewing the situation and deciding on the measures to be taken, it is essential that attention be given to all the grounds in implementing the national policy (see 2012 General Survey on the fundamental Conventions, paragraphs 848 and 849). **The Committee therefore once again asks the Government to take the necessary measures to promote equality of opportunity and treatment in respect of employment and occupation with a view to eliminating any discrimination on the grounds of race, colour, religion and national extraction. The Committee also again asks the Government to provide information on any cases of discrimination in employment based**

on these grounds identified by or reported to the competent authorities, and on the manner in which they were dealt with. Please provide information on awareness-raising activities, such as training or seminars, on discrimination on the grounds of race, colour, religion and national extraction, among labour inspectors, judges and other relevant public officials, as well as employers, workers and their organizations.

Article 5. Special measures. Persons with disabilities. The Committee recalls the Government's previous indication that the National Council on Persons with Disability was in the process of collecting data on persons with disabilities and on the implementation of the special incentive scheme for employing persons with disabilities. *Noting with regret that the Government once again provides no new information in this regard, the Committee reiterates its request that the Government communicate such data.*

Enforcement. Noting that the Government's report is once again silent on this point, the Committee recalls that the monitoring and enforcement of equality and non-discrimination laws and policies is important in determining whether there is effective implementation of the Convention (see 2012 General Survey on the fundamental Conventions, paragraph 868). *The Committee therefore reiterates its request to the Government that it takes steps to enhance the capacity of law enforcement officials to identify and address discrimination in employment and occupation. Once again, the Committee asks the Government to provide information on any decisions of the courts, the National Labour Commission, the Commission on Human Rights and Administrative Justice, or any other competent body, as well as on any violations identified by, or reported to, labour inspectors and the manner in which such cases were addressed. Finally, the Committee again asks the Government to take concrete steps to revise the labour inspection form to include a specific reference to discrimination on all the grounds listed in the Convention, including to sexual harassment.*

The Committee is raising other matters in a request addressed directly to the Government.

Guinea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1960)***

Article 1(1)(a) and (b) of the Convention. Anti-discrimination legislation. Civil service. The Committee recalls that Act No. L/2014/072/CNT issuing the Labour Code of 2014 excludes public officials from its scope of application (section 2). It also recalls that section 11 of Act No. L/2001/028/AN of 31 December 2001 issuing the Civil Servants Regulations only prohibits discrimination between officials on the basis of political, trade union, philosophical or religious views, and on the basis of sex or ethnic origin. Since 1990 the Committee has been underlining the fact that legal protection against discrimination for civil servants is inadequate since it does not cover all aspects of discrimination based on race, colour, national extraction and social origin, and that applicants for employment in the civil service are not covered by section 11 of the Civil Servants Regulations. *Noting the Government's indication in its report that the Committee's request to amend the legal provisions concerning discrimination will be referred to the Ministry of the Civil Service, the Committee trusts that the Government will take the necessary steps in the very near future to amend section 11 of Act No. L/2001/028/AN issuing the Civil Servants Regulations, so as to ensure that civil servants and applicants for employment in the public service are afforded protection against any direct or indirect discrimination on the basis of at least all of the grounds of discrimination covered by Article 1(1)(a) of the Convention. The Government is requested to provide information on any measures taken in this regard and on any complaint mechanism enabling applicants for employment in the civil service to lodge an appeal if they consider that they have suffered discrimination at the time of recruitment.*

Discrimination on the basis of sex. Sexual harassment. The Government indicates in its report that, despite the penalties established by law, victims of sexual harassment hardly ever file complaints for sexual harassment. *Noting that the Government recognizes the existence of victims of sexual harassment, the Committee requests it to take measures to prevent sexual harassment in employment and occupation, for example, by launching awareness-raising campaigns (such as, on the radio or through other media) or reinforcing prevention activities by the labour inspectorate in this area, and also measures to inform workers, employers and their respective organizations of their rights and obligations in this area. The Government is also requested to consider whether complaint and appeal mechanisms at the national level and within enterprises are sufficiently accessible, impose adequate penalties and have the capacity to stop sexual harassment.*

The Committee is raising other matters in a request addressed directly to the Government.

Workers with Family Responsibilities Convention, 1981 (No. 156) ***(ratification: 1995)***

Articles 3 and 6 of the Convention. National policy. Information and education. The Committee recalls that, according to Article 3 of the Convention, "with a view to creating effective equality of opportunity and treatment for men and women workers, each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities". Such measures belong

in the context of the broader issue of gender equality. It is essential, therefore, that the policy be designed not only to eliminate all discrimination against workers with family responsibilities in law and practice, but that active measures should be taken to promote the principle of equality of opportunity and treatment for workers with family responsibilities in all areas of employment and occupation (see General Survey of 1993 on workers with family responsibilities, paragraphs 54–59). For almost 20 years, the Committee has been emphasizing that “family responsibilities” are not among the grounds of discrimination expressly prohibited by the Labour Code. The Committee notes the Government’s indication, in its report, that it will take steps to enable men and women with family responsibilities to enjoy their rights.

Recalling that there is still no national policy concerning workers with family responsibilities, the Committee urges the Government to take the necessary measures, in law and practice, to ensure that men and women workers with family responsibilities who so wish are able to access employment or be engaged in employment without discrimination and, if possible, without conflict between their employment and family responsibilities, including: (i) by expressly prohibiting in the Labour Code any discrimination on the basis of family responsibilities in all forms of employment and occupation, including at the recruitment level; (ii) by allowing workers with family responsibilities to be informed of their rights and to assert them; and (iii) by adopting a combination of support measures and public information and awareness-raising measures on the problems that workers with family responsibilities face, as well as measures to promote mutual respect and tolerance within the population.

The Committee is raising other matters in a request addressed directly to the Government.

Iraq

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1963)

Articles 1(a) and (b) and 2 of the Convention. Definition of remuneration. Equal remuneration for work of equal value. Legislation. In its previous comments, the Committee pointed out that section 4(2) of the Labour Code of 1987, which limited equal remuneration to work of the same nature and the same volume performed under identical conditions, was more restrictive than the principle of equal remuneration for work of equal value set out in the Convention. The Committee notes with **satisfaction** that section 53(5) of Labour Law No. 37/2015 which entered into force in February 2016, provides for “equal wage for men and women for work of equal value”. The Committee further notes that the term “wage” is defined as “any amount or benefit due to the worker in return for any work performed, including all allowances and wages due for overtime” (section 1(14)), in accordance with the *Article 1(a)* of the Convention. ***The Committee requests the Government to provide information on the application in practice of section 53(5) of the new Labour Law. It also requests the Government to take steps to raise awareness of the concept of “equal remuneration for work of equal value” among workers, employers and their respective organizations as well as enforcement officials and the general public.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1959)

Article 1 of the Convention. Legislative developments. The Committee notes with **interest** the provisions concerning equality and discrimination in the Labour Law No. 37/2015 which entered into force in February 2016. In particular, the Committee notes that section 8 prohibits both direct and indirect discrimination in all matters relating to vocational training, recruitment and terms and conditions of employment. In section 1 of the new Labour Law, direct discrimination is defined as “any distinction or preference based on race, colour, sex, religion, religious community, opinion or political belief, origin and national extraction”, and indirect discrimination as “any exclusion, distinction or preference based on nationality, age or health condition, economic or social condition, affiliation to a trade union, and trade union activity and which has the effect of nullifying or impairing equality of opportunity or equality of treatment in employment and occupation”. Section 10 prohibits sexual harassment and harassment based on sex and appears to cover both quid pro quo and hostile environment harassment. The Committee further notes that section 11(2) of the Labour Law provides for sanctions (imprisonment for a period not exceeding six months and/or a fine not exceeding 1 million Iraqi dinars (IQD)) in cases of discrimination and sexual harassment. ***The Committee asks the Government to provide information on the application in practice of sections 8 and 10 of Labour Law No. 37/2015. It asks the Government to provide details of any complaints of discrimination or sexual harassment filed with the labour court, or details of any other complaint mechanisms, as well as any sanctions imposed. The Committee also asks the Government to take steps to raise awareness of the anti-discrimination provisions of the new Labour Law among workers, employers and their respective organizations as well as enforcement officials and the general public.***

Article 2. National policy to promote equality of opportunity and treatment in employment and occupation. With respect to the formulation and implementation of a national equality policy, the Committee notes that the Government refers in its report to the adoption of Labour Law No. 37/2015. The Committee acknowledges that the adoption of legal provisions prohibiting discrimination on the basis of a number of grounds in employment and occupation constitutes an important step in addressing the matter covered by the Convention. Nevertheless, it draws the Government’s attention to the fact that the formulation and implementation of a national equality policy presuppose the adoption of a range of

specific measures, which often consist of a combination of legislative and administrative measures, collective agreements, public policies, affirmative action measures, dispute resolution and enforcement mechanisms, specialized bodies, practical programmes and awareness raising. Concrete and specific measures are necessary to address discrimination effectively and promote equality. *The Committee asks the Government to take steps to promote equal opportunities and treatment in employment and occupation irrespective of race, colour, sex, religion, political opinion, social origin and national extraction, and any other prohibited grounds of discrimination. In particular, it asks the Government to introduce measures to provide equal opportunities for men and women, including men and women belonging to ethnic or religious groups, in the labour market in the public and private sectors, and to provide information on any measures taken in this respect. The Committee also asks the Government to take specific steps to promote tolerance and coexistence among religious and ethnic groups and raise awareness of the existing labour legislation prohibiting discrimination.*

The Committee is raising other matters in a request addressed directly to the Government.

Ireland

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1999)***

Articles 1(1)(a) and 2 of the Convention. *Gender discrimination and equality of opportunity and treatment for men and women.* In its previous comments, the Committee had noted that a Constitutional Convention had voted in favour of recommending that article 41.2 of the Constitution, which provides that “mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home”, be amended by replacing the word “mothers” with “carers”. The Committee had noted that this proposed amendment, while aiming at recognizing the role of caregivers in society, was likely to apply in practice mainly to women and that it might continue to hinder the inclusion of women in the labour market, or impede their ability to re-enter the labour market. It therefore requested the Government to ensure that the Constitution did not encourage direct or indirect stereotypical treatment of women in the context of employment and occupation. The Committee notes the Government’s statement in its report that the Programme for a Partnership Government, published in May 2016, proposed to hold a referendum on article 41.2 of the Constitution and that this referendum is not due to take place before 2018. It further notes the policy statement of the Irish Human Rights and Equality Commission (IHREC), on article 41.2 of the Constitution (June 2018) in which IHREC expresses the view that article 41.2 perpetuates gender stereotypes and that it should be amended to: (i) be rendered gender neutral; (ii) reference “family life”, and that “family life” should be understood as including a wide range of family relationships and include situations where family members do not live in the same house; and (iii) recognize and support care work, including parents and others providing family care. *The Committee requests the Government to provide information on the measures taken to implement the recommendations of the Irish Human Rights and Equality Commission. It further urges the Government to take the opportunity presented by the current constitutional review process to ensure that article 41.2 of the Constitution does not encourage, directly or indirectly, stereotypical treatment of women in the context of employment and occupation and to provide information on the specific steps taken in this regard.*

Article 1(1)(a). *Discrimination based on political opinion or social origin.* The Committee recalls that in its previous comment, noting that the grounds of discrimination prohibited under the Employment Equality Act do not cover political opinion and social origin, it had asked the Government to take steps to ensure legislative protection against discrimination in employment and occupation based on political opinion and social origin, and to provide information on the progress made in this regard as well as on the measures taken to ensure protection against discrimination based on these two grounds in practice. The Committee notes with *concern* the Government’s repeated statement that it has no immediate plans to amend the equality legislation so as to include social origin and political opinion as prohibited grounds of discrimination. *Recalling that it has consistently stated that where legal provisions are adopted to give effect to the Convention, they should include at least all of the grounds of discrimination set out in Article 1(1)(a) of the Convention, the Committee urges once again the Government to take steps to ensure legislative protection against discrimination in employment and occupation based on political opinion and social origin, and to provide information on any progress made in this regard. It also reiterates its requests to the Government to provide information on the measures adopted or envisaged to ensure protection against discrimination based on political opinion and social origin in practice.*

Article 1(2). *Inherent requirements of the job.* In order to ensure that any exception to the principle of non-discrimination enshrined in the Convention is restricted to the inherent requirements of a particular job, the Committee previously urged the Government to take steps to amend the relevant provisions of section 2 of the Employment Equality Act which excludes from the Act’s scope “persons employed in another person’s home for the provision of personal services for persons residing in that home where the services affect the private or family life of such persons”. Section 2 thereby permits employers of domestic workers to make recruitment decisions on discriminatory grounds. The Committee notes the Government’s statement that while the exception in section 2 applies to recruitment, once in employment, discrimination is prohibited against such workers. The Government further indicates that employers are encouraged to implement non-discriminatory practices through the voluntary Code of Practice for Protecting Persons Employed in Other

People's Homes. The Committee notes however that this Code of Practice only protects domestic workers from discrimination once they are employed and not in their access to employment. It recalls in this regard that there are very few instances where the grounds listed in the Convention actually constitute inherent requirements of the job. For example, distinctions on the basis of sex may be required for certain jobs, such as those in the performing arts or those involving physical intimacy. These distinctions should still be determined on an objective basis and take account of individual capacities. Overly broad exceptions in equality legislation excluding domestic workers from the protection of discrimination in respect of access to employment, may lead to discriminatory practices by employers against these workers, contrary to the Convention. The Committee considers that the right to respect for private and family life should not be construed as protecting conduct that infringes the fundamental right to equality of opportunity and treatment in employment and occupation, including conduct consisting of differential treatment of candidates for employment on the basis of any of the grounds covered by *Article 1* of the Convention where this is not justified by the inherent requirements of the particular job (see 2012 General Survey on fundamental Conventions, paragraph 830). In this regard, the Committee wishes to draw attention to the fact that: (i) no provision in the Convention limits its scope as regards individuals or branches of activity; and (ii) the protection afforded by the Convention includes all aspects of employment and occupation – including access to employment and to particular occupation. Welcoming the recent ratification by Ireland of the Domestic Workers Convention, 2011 (No. 189), the Committee refers the Government to its comments adopted in 2017 under that instrument. ***The Committee urges the Government once again to take steps to amend the relevant parts of section 2 of the Employment Equality Act, so as to ensure that any limitations on the right to non-discrimination in all aspects of employment and occupation are restricted to the inherent requirements of the particular job, as strictly defined.***

The Committee is raising other matters in a request addressed directly to the Government.

Israel

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1959)

Article 1(1)(a) of the Convention. Discrimination on the basis of sex, race, colour or national extraction. Foreign caregivers. In its previous observation, the Committee recalled the decision of the High Court of Justice in *Yolanda Gloten v. the National Labour Court*, HCJ 1678/07, of 29 November 2009, excluding the application of the Hours of Work and Rest Law, 1951 (including provisions on overtime pay), to foreign women workers providing care on a live-in basis. In this connection, it noted the information provided by the Government with regard to a set of recommendations submitted by the governmental staff committee to the Minister of Economy, which included the following: (i) the Hours of Work and Rest Law and its regulations concerning overtime pay should be amended in order to clarify that live-in caregivers are not excluded from the scope of the law, emphasizing the difficulty of supervising their working hours; (ii) instead of overtime pay, live-in caregivers should be entitled to a comprehensive wage which should include payment for overtime at not less than 120 per cent of the monthly minimum wage; (iii) the weekly rest should be no less than 25 hours; (iv) the Wage Protection Law, 1958, should be amended in order to limit the rate of the wage that the employer can pay in food and drink to no more than 732 Israeli shekels (ILS) per month; and (v) the regulation which entitles the employer to deduct half of the sum for housing should be abolished with respect to live-in caregivers and deductions for various expenses should not exceed ILS409 in the caregiving sector only. The Committee requested the Government to ensure that female foreign workers are not being directly or indirectly discriminated against on the basis of sex, race, colour or national extraction, and to provide information on any differential impact between national and foreign workers with respect to the measures of protection or requirements applying to the caregiving sector. It also requested the Government to provide information: (i) on the measures adopted to give effect to the recommendations formulated by the governmental staff committee and any difficulty in this regard; and (ii) on any complaints submitted by female foreign and national caregivers with the authorities, indicating the nature of the complaint and the outcome thereof. The Committee notes that, in its report, the Government states its intention to adopt a gradual approach towards the implementation of the recommendations made to the Ministry of Economy to improve the situation of caregivers. The Committee recalls that the Convention applies to all workers, both nationals and non-nationals, in all sectors of activity, in the public and the private sectors, and in the formal and informal economy. Consequently, where certain categories of workers are excluded from general labour or employment law, it needs to be determined whether special laws or regulations apply to such groups and whether they provide the same level of rights and protection as the general provisions (see 2012 General Survey on the fundamental Conventions, paragraph 742). The Committee recalls that all care workers, including foreign caregivers, must be effectively protected against discrimination in employment and occupation on the grounds set out in the Convention, including with respect to their conditions of work. On these issues, the Committee also refers to its observations on Convention No. 100 and the Migration for Employment Convention (Revised), 1949 (No. 97). ***Recalling the heavy dependence of the care sector on the work of live-in foreign caregivers, as noted in its comments on the Migration for Employment Convention (Revised), 1949 (No. 97), the Committee requests the Government to supply information on the concrete measures adopted or envisaged within the framework of the gradual approach to the implementation of the recommendations made to the Ministry of Economy with a view to ensuring that foreign women workers are effectively protected against direct and indirect discrimination on the basis of sex, race, colour or national extraction,***

in line with the Convention. It also reiterates its request for information on any complaints submitted by female foreign and national caregivers with the different authorities, indicating the nature of the complaint and the outcome thereof, as well as on any differential impact between national and foreign workers with respect to the measures of protection or requirements applying to the caregiving sector.

Articles 1 and 2. Equality of opportunity and treatment irrespective of race, national extraction or religion. In its previous comments, the Committee requested the Government to continue to provide information on the various measures and programmes implemented to promote equal access to employment of Arab Israelis, Druze and Circassians, and their impact. The Government was also requested to provide up-to-date information, disaggregated by sex and sector of population, on labour force participation, unemployment and employment rates. The Committee notes the information provided by the Government in its report on the various measures implemented in the framework of Government Resolution No. 1539 of 2010 (five-year plan for economic development) under the coordination of the Authority for the Economic Development of the Arab, Druze and Circassian Sectors (AEDA) in 13 localities. These include microloans specifically directed at Arab women, entrepreneurship programmes for the Bedouin population, and the establishment of new one-stop employment centres, among others. The Committee notes the Government's indication that the plan ended in 2014. On the other hand, the Committee notes Government Resolution No. 922 of 30 December 2015 approving the five-year plan for economic development of the Arab population for the period 2016–20, which allocates funds for action aimed at tackling gaps between the Jewish and Arab population in a range of domains, including education and employment. The Committee also notes the statistical information provided by the Government on the employment rate of the population, according to which, from 2012 to 2014, there was an increase of 1.3 and 3.9 percentage points in the employment rate of Arab men and women, respectively. The Committee further notes the Basic Law on the Nation-State, adopted by the Knesset on 18 July 2018, which recognizes, among others, Hebrew as the official language of Israel (article 4(a)), and confers on the Arabic language a “special status” to be further regulated by law (article 4(b)), providing however that this clause does not change the status given to the Arabic language prior to the adoption of the Basic Law (article 4(c)). The Committee also notes that article 10 of the Basic Law on the Nation-State recognizes: (i) Saturday and the Jewish holidays as official days of rest in the country; and (ii) the right of those who are not Jewish to honour their days of rest and their holidays, the exercise of which will be regulated by law. In this regard, the Committee recalls that the principle of equality of opportunity and treatment under the Convention shall apply to all aspects of employment and occupation, including terms and conditions of employment, such as hours of work, rest periods and annual holidays with pay. The Committee furthermore notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about the systemic discrimination experienced by national minorities, specifically women and girls belonging to the Arab and Bedouin communities (CEDAW/C/ISR/CO/6, 17 November 2017, paragraph 10). *The Committee requests the Government to continue to provide information on the measures adopted to promote equality of opportunity and treatment in employment and occupation of the Arab, Druze and Circassian population and their impact, including information on any assessments undertaken on the results of the five-year plans and the follow-up actions envisaged or implemented. The Committee also requests the Government to monitor the impact of the Basic Law on the Nation-State on the employment of men and women from the Arab, Druze and Circassian population in both the public and the private sectors, so as to address any direct or indirect discrimination based on the grounds provided for in the Convention, including as regards language requirements for obtaining or retaining a job and for career progression opportunities, and to provide information in this respect. Please also continue to supply statistical information, disaggregated by sex and population group, on employment rates and participation in the various sectors and occupations.*

The Committee is raising other matters in a request addressed directly to the Government.

Jordan

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 1963)***

Legislative framework. The Committee recalls that, in its previous observation, it welcomed the findings and recommendations of the legal review on pay equity conducted by the National Steering Committee for Pay Equity (NSCPE), with ILO support, and asked the Government to provide information on the steps taken to implement the recommendations arising out of the legal review as they relate to the Convention, in particular with respect to the proposed amendments to sections 4 and 29A(6) of the Labour Law, with a view, respectively, to: (i) explicitly defining and prohibiting direct and indirect discrimination based on at least all the grounds enumerated in *Article 1(1)(a)* of the Convention, in all areas of employment and occupation, and covering all workers; and (ii) providing clear protection and remedies with respect to quid pro quo and hostile environment sexual harassment. The Committee notes that the Government does not provide information in its report on any of these matters. It however notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about the harsh conditions and high risk of physical and sexual abuse faced by many girls engaged as domestic workers (CEDAW/C/JOR/CO/6, 9 March 2017, paragraph 43(h)). In this regard, the Committee wishes to emphasize the importance of taking effective measures to prevent and prohibit sexual harassment in employment and occupation and it

refers to the specific guidance provided in its general observation of 2002 on the topic. It also recalls that clear and comprehensive definitions of what constitutes discrimination in employment and occupation are instrumental in identifying and addressing the many manifestations in which it may occur (see 2012 General Survey on the fundamental Conventions, paragraph 743). ***The Committee therefore again asks the Government to provide information on the steps taken to implement the recommendations of the NSCPE legal review on pay equity with a view to explicitly defining and prohibiting direct and indirect discrimination based on at least all the grounds enumerated in Article 1(1)(a) of the Convention, in all areas of employment and occupation, and covering all workers, as well as providing clear protection and remedies with respect to quid pro quo and hostile environment sexual harassment. The Committee also requests the Government to provide information on the measures taken in practice to raise awareness of and prevent and protect against sexual harassment in employment and occupation and on any cases relating to sexual harassment dealt with by the courts or detected by the labour inspectorate, and their outcomes.***

Article 5. Special measures of protection. Restrictions on women's employment. In its previous observation, the Committee referred to section 69 of the Labour Code, under which the Minister shall specify industries and occupations in which the employment of women is prohibited and the times during which women are prohibited from working, and asked the Government to take the opportunity of the ongoing legislative review process to amend section 69 of the Labour Code and the corresponding Ordinance No. 6828 of 1 December 2010, to ensure that any restrictions on women's employment are limited to maternity in the strict sense, and to provide information on any steps taken in this regard. Noting that the Government report is silent on this particular issue, the Committee recalls that protective measures applicable to women's employment which are based on stereotypes regarding women's professional abilities and role in society violate the principle of equality of opportunity and treatment between men and women in employment and occupation. It also wishes to stress that provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health (see 2012 General Survey on the fundamental Conventions, paragraph 840). Such restrictions have to be justified (based on scientific evidence) and periodically reviewed in the light of developments and scientific progress in order to ascertain whether they are still needed and remain effective. ***In the absence of information from the Government, the Committee reiterates its request to the Government to take the opportunity of the ongoing legislative review process to amend section 69 of the Labour Code and the corresponding Ordinance, to ensure that any restrictions on women's employment are limited to maternity in the strict sense, and to provide information on any steps taken in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Republic of Korea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1998)

Article 1 of the Convention. Discrimination on the basis of political opinion and inherent requirements of a particular job. School teachers. The Committee recalls its previous comments in which it expressed concerns regarding the prohibition of pre-school, primary and secondary school teachers from engaging in political activities. It further recalls that in June 2015, the Committee on the Application of Standards (CAS) of the International Labour Conference had urged the Government to provide more detailed information on the issue of a possible discrimination on the basis of political opinion against teachers, so as to allow a solid assessment of the compliance of the related laws and practice with the Convention.

The Committee notes that, in its report, the Government recalls the constitutional requirement of political neutrality of education and declares that any activities of primary and secondary school teachers, whether they take place at work or not, and within the school or not, are potentially part of education, as teachers have an important influence in developing the characters and basic habit of primary and secondary school students who are receptive to what they learn. According to the Government, it is therefore inappropriate to separate "activities outside the classroom and the school and unrelated to teaching from any other activities of teachers", and it recalls that this position has been upheld by the Korean Constitutional Court in its ruling of 25 March 2004. The Government concludes therefore that the current law does not impose an excessive restriction on teachers, as they are allowed nevertheless: (i) to express their political views, if they are not views from trade unions and other groups to which the teachers belong but are "personal"; and (ii) to engage in activities which are within the scope of their "personal" activities, as long as they do not constitute activities banned under the State Public Officials Act. In this regard, the Committee observes that section 65 of the State Public Officials Act does not permit public officials to "participate in an organization of, or join in, any political party or other political organization" or to "engage in the following activities to support or oppose a specified political party or person in an election: soliciting any person to cast or not to cast a vote; attempting, superintending, or soliciting a signed petition campaign; putting up, or causing another person to put up, documents or books at public facilities, etc.; raising, or causing another person to raise, any contribution, or using, or causing another person to use, public funds; soliciting another person to join or not to join a political party or any other political organization". In addition, "no public official shall

demand other officials to engage in any activity against paragraphs (1) and (2) [of section 65], or promise him/her any advantage or disadvantage as a reward or retaliation for any political activities” (section 65(3)).

The Committee wishes to recall that protection against discrimination on the basis of political opinion implies protection in respect of the activities of expressing or demonstrating opposition to established political principles and opinions. It also covers discrimination based on political affiliation (General Survey of 2012 on the fundamental Conventions, paragraph 805). The Committee also recalls that, although in certain circumstances restrictions with respect to political opinion might constitute a bona fide qualification for certain posts (an inherent requirement of the job), it is essential that such restrictions are not carried beyond certain limits, as such practices may then come into conflict with the Convention’s provisions calling for the implementation of a policy designed to eliminate discrimination on the basis of political opinion, in particular in respect of public employment (see 2012 General Survey, paragraph 831). Consequently, the inherent requirement of a particular job provision must be interpreted restrictively so as to avoid undue limitation of the protection that the Convention is intended to provide. In the case in question, the Committee cannot but reiterate that, in so far as political activities are held *outside* of the school establishment and are *unrelated* to teaching, a general prohibition of political activities does not constitute an inherent requirement within the meaning of *Article 1(2)* of the Convention. Therefore, disciplinary measures against teachers who engage in such activities constitute discrimination on the ground of political opinion, contrary to the Convention. ***Consequently, the Committee once again urges the Government to take immediate steps to ensure that elementary, primary and secondary school teachers enjoy protection against discrimination based on political opinion, as provided for in the Convention, regarding activities that are carried out outside the classroom and the school and unrelated to teaching, as well as measures to ensure that teachers are not subject to disciplinary measures for such reasons.***

Article 1(2). Inherent requirements of the job. Political opinion and public officials. The Committee recalls that it had requested the Government to indicate the reason why prohibiting public officials from joining a political party and participating in political activities (sections 65(1) of the State Public Officials Act) was related to an inherent requirement of the job. The Committee notes the Government’s reply that this prohibition is aimed at guaranteeing public officials’ neutrality, protecting them from unfair intervention by political powers and helping enhance public interest in maintaining consistency and continuity of the administration. In addition to its comments in the above paragraph, the Committee wishes to point out that, political opinion may be taken into consideration as a prerequisite justified by the inherent requirements of a given job, only if this restriction applies to a narrow range of jobs and not for the entire public sector. Furthermore, the Committee recalls that the concept of “a particular job” refers to a specific and definable job, function or task; any limitation within the context of this exception must be required by the characteristics of the particular job, and be in proportion to its inherent requirements, and must be interpreted restrictively. The Committee considers that, in no circumstances should the same requirement involving one or more of the grounds of discrimination be applied to an entire sector of activity or occupation, especially in particular in the public sector (see 2012 General Survey, paragraph 828). ***Consequently, the Committee asks the Government to consider limiting the prohibition of political activities to certain positions and therefore to consider the possibility of adopting a list of jobs in the public service for which political opinion will be an inherent requirement. In the meantime, it requests the Government to provide information on the practical application of sections 65(1) of the State Public Officials Act, following the decision of the Constitutional Court, including on any disciplinary action taken.***

The Committee is raising other matters in a request addressed directly to the Government.

Workers with Family Responsibilities Convention, 1981 (No. 156) ***(ratification: 2001)***

The Committee notes the observations of the Federation of Korean Trade Unions (FKTU) and the Korea Employers’ Federation (KEF), as well as the Government’s reply to the FKTU’s observations, communicated with the Government’s report.

Article 3 of the Convention. National policy. Legislative developments. The Committee notes with ***interest*** the adoption of a new Framework Act on Gender Equality (Act No. 12698 of 28 May 2014), in particular article 24(3) and (4) (support to workers whose career is, or may be, impacted by pregnancy, childbirth or childcare); article 25 (guarantee of rights related to maternity and paternity); article 26 (measures for a harmonious work–family balance); and article 35 (calling for democratic and gender-equal family relationships); as well as the amendments to the Equal Opportunity and Work–Family Balance Assistance Act (Act No. 8781 of 21 December 2007, previously called the “Act on the Equal Employment of Both Sexes” or “Equal Employment Act”) in 2012, 2014, 2015 and 2016 in relation, inter alia, to the formulation of a basic plan for the realization of equal employment for both genders and work–family balance every five years (article 6-2); maternity leave benefits (article 18); paternity leave (article 18-2); childcare leave (article 19); reduction of working hours and other measures to support the worker during the period of childcare (articles 19-2 and 19-5); support by employers to workers who return to work after leave or a reduction of working hours in relation to family responsibilities (article 19-6); support for family care of workers, including prohibition of dismissal or discrimination against workers on the ground of family care leave, and inclusion of the period of family care leave in the period of continuous service (article 22-2); and penalty provisions and administrative fines (articles 37 and 39).

In its previous comment, the Committee asked the Government to provide information on the practical application of the Act on the Promotion of the Economic Activities of Career-Interrupted Women (No. 9101 of 2008) and the Act on the Promotion of Creation of Family-friendly Social Environment (No. 8695 of 2007), as well as the Second Basic Plan for Healthy Family (2011–15) and the Second Basic Plan on Low Birth Rate and Aging Society (2011–15), in the context of workers with family responsibilities, and on the process of enacting the Smart Work Promotion Bill. The Committee notes the Government's indication that the latter bill was not adopted by the National Assembly and has been abandoned. It also notes that, in accordance with the Career-Interrupted Women Act, Basic Plans to Promote the Economic Activities of Career-Interrupted Women were established and implemented for the periods 2010–14 and 2015–18, with a particular focus on the prevention of career-breaks for employed women, the promotion of the re-employment of women whose careers had been interrupted, the reinforcement of childcare infrastructure and the establishment of a work–family balance environment. The Committee also notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) in its concluding observations on the eighth periodic report of the Republic of Korea welcomed the adoption, inter alia, of the Second Basic Plan for Gender Equality Policies (2018–22) (CEDAW/C/KOR/CO/8, 14 March 2018, paragraph 5(b)). It also notes that the Ministry of Gender Equality and Family (MOGEF) informed the CEDAW, during the presentation of the Republic of Korea's eighth periodic report on 22 February 2018, of the adoption of the Sixth Basic Plan for Gender Equal Employment (2018–22). The Committee notes that one of the six major projects of the Second Basic Plan for Gender Equality Policies concerns the creation of social infrastructure for work–life balance by strengthening social responsibility for care-giving, guaranteeing working parents' maternal and paternal rights and fostering a family-friendly culture in the workplace. The Government underlines that it created 150 new job centres for women (as of July 2016) offering women whose careers had been interrupted customized employment support services such as employment counselling, vocational education and training, internships, job placement and follow-up management; and carried out two surveys on the actual status of economic activities of women whose careers had been interrupted with a view to collect statistical and policy data to inform new policies, including re-employment support. Under the Second Basic Plan for Healthy Family and the Second Basic Plan on Low Birth Rate and Aging Society, the Government selected key policy tasks such as childcare support (providing such support to more households, establishing and expanding cooperative childcare activities and spaces and operating after-school childcare services), capacity-building support for various types of families (including unwed mothers), building a family-friendly environment by expanding flexible work arrangements at public institutions and encouraging the use of childcare leave (including paternity leave), and introducing the "Father's Month" incentive whereby if both parents take childcare leave in turn for the same child, the benefits for the second person taking childcare leave is increased to 100 per cent of the ordinary wage for three months (up to 1.5 million South Korean won). The Committee also notes the Government's statement that it provided free childcare service for all groups of persons with infants, strengthening social responsibilities for childbirth and childcare, including by lowering the financial burden for child rearing for any household. According to the Government, the number of children covered by subsidies for childcare centres costs rose from 680,000 in 2006 to 1.48 million in 2014, and the number of children covered by child-rearing subsidies went from 680,000 in 2009 to 1.01 million in 2014. According to statistics available on the website of MOGEF, 63,546 families were using child-care services in 2017, in an increase 3.8 per cent compared to 2016 (61,221 families).

With regard to the family-friendly company certification system under the Act on the Promotion of Creation of Family-friendly Social Environment, the Committee welcomes the significant increase in the number of family-friendly certified corporations, from 1,363 as of December 2015 according to the Government's report to 2,802 in 2017 according to statistics from MOGEF. The Government indicates that family-friendly certified corporations receive extra points in qualification assessment for government procurement as well as various benefits for bank investments and loans.

Welcoming these positive developments, the Committee requests the Government to provide information on the application, in practice, of the Framework Act on Gender Equality, 2014 (Act No. 12698), as amended, and the Equal Opportunity and Work–Family Balance Assistance Act, 2007 (Act No. 8781) as amended. Noting the adoption of several plans aiming at gender equality in employment and support to workers with family responsibilities, the Committee also requests the Government to provide information on the concrete measures taken in application of these plans, the categories and number of workers benefiting from these measures and the results obtained. The Government is also requested to continue to provide information on the family-friendly company certification system, indicating the criteria taken into account and process to award the certification to a corporation.

Article 4. Leave entitlements for men and women workers with family responsibilities. The Committee notes the statistics on the recipients of childcare leave provided by the Government. While welcoming the significant increase, between 2011 and 2015, in the number of recipients (plus 50.2 per cent in general and plus 247.5 per cent for men) and in the financial amount of benefits provided (plus 124.3 per cent in general and plus 376 per cent for men), the Committee notes that, in 2015, men represented only 5.6 per cent of the childcare leave beneficiaries (i.e. 4,872 men out of 87,339 beneficiaries in total; the Government indicating that this ratio went up to 7.4 per cent in the first half of 2016) and only 4.4 per cent of the total amount of benefits received (it was, respectively, 2.4 per cent of beneficiaries and 2.1 per cent of benefits received in 2011). In its previous comment, the Committee requested the Government to indicate the underlying causes of the low number of men taking childcare leave and to take measures to promote the exercise of childcare leave particularly by men. It notes the Government's explanation that this is due to the overall social and employment cultures, such as the long-standing practice of working long hours and fear of what the supervisor or co-workers might think. In

addition, men are still the majority of the primary – if not the only – revenue earner in the family and some households may find it difficult to maintain their standard of living if the father takes childcare leave. The Government emphasizes that it has intensively promoted the need for paternity leave through the public–private work–family balance council and that the number of persons joining the “Father’s Month” system (explained above), which it adopted in 2014 and extended to three months in 2016, grew 3.4 times between 2015 and 2016. The Committee also notes that the following provisions to the Employment Opportunity and Work–Family Balance Assistance Act have been amended: article 18-2 to provide up to five days of paternity leave (three days paid); article 19(1) to raise the age limit of children, including adopted children, for purposes of determining parent’s eligibility for such leave, to under the age of 8 years; and article 19(5) in order, according to the Government, to protect fixed-term and temporary agency workers’ right to childcare leave. In this regard, the Committee brings the attention of the Government to the concluding observations of CEDAW which recommended it continue to conduct awareness-raising campaigns and expand benefits, such as by raising the benefit level for maternity and paternity leave so as to enhance the incentives to share child-rearing responsibilities between parents (CEDAW/C/KOR/CO/8, paragraph 39 (c)). ***The Committee requests the Government to continue to provide information on the leave entitlements in practice, including statistical information, disaggregated by sex, on the number of beneficiaries of such entitlements. It encourages the Government to continue to take proactive measures to encourage more men to exercise their right to take leave for childcare, as well as to indicate the results achieved by such measures.***

Working time arrangements. In its previous comment, the Committee asked the Government to provide detailed information on: (i) the use of the flexible working hour system and working hour saving system, including statistical information, disaggregated by sex, on the number of beneficiaries of such systems, as well as the impact of the latter on employment of workers with family responsibilities; and (ii) legislative amendments to provide the right to reduced working time during childcare periods. The Committee notes that the 2012 amendments to article 19-2 of the Equal Opportunity and Work–Family Balance Assistance Act introduced the right to reduced working time during childcare period. It also notes the Government’s statement that amendments are pending in the National Assembly to extend the period during which a flexible working hour system can be put in place (up to six months as from 2024) and introduce a working hour saving system. The Committee notes with *interest* the adoption, on 28 February 2018, of amendments to the Labour Standards Act (No. 8372 of 2007) in order to reduce the maximum statutory working hours from 68 hours to 52 hours (40 hours a week – the law specifying that the term “week” includes the Saturday and the Sunday – and up to 12 hours of overtime work, with work on holiday or weekend being counted as overtime work) with a gradual implementation according to the number of employees from 1 July 2018 (for workplaces with 300 employees or more) to 1 July 2021 (for workplaces with five to 50 employees, with the possibility for workplaces with less than 30 employees to work an additional eight hours of special overtime until 31 December 2022 if such an agreement is made between the employer and the employee). The Committee recalls that hours of work and the arrangement of working time are of central concern to workers with family responsibilities and that the improvement of working conditions has been found, in practice, to be highly supportive of policies for the promotion of equal opportunities and treatment between men and women in employment. Measures taken in this field, such as the reduction of hours of work, enable workers better to reconcile their work and family responsibilities and encourage men to become more involved in family matters. In addition, it recalls that paragraph 18(a) of the Workers with Family Responsibilities Recommendation, 1981 (No. 165) calls for the progressive reduction of daily hours of work and the reduction of overtime (see General Survey of 1993 on workers with family responsibilities, paragraphs 131 and 133). The Committee notes the Government’s indication that it has been encouraging companies to reduce working hours by offering financial support to small and medium enterprises and conducting labour inspections in sectors where overtime is common, while raising public awareness and creating a climate for addressing unnecessary long hours and night work. In this regard, the Committee notes the FKTU’s observations that men do more overtime working hours than women, which, in turn, has a significant impact on wages. Overtime compensation affects the practice of working long hours which creates an unequal employment environment with career discontinuity for women and a gender wage gap. The Committee also notes the Government’s reply to FKTU’s observations whereby it underlines that the gender gap in working hours, and the resulting wage gap, is attributable to a culture in which women usually bear more of the burden of childcare than men due to long working hours; and that it addresses the issue by making efforts to expand a business culture favourable to work–family balance. ***The Committee requests the Government to provide information on the status of the amendments relating to the flexible working hour system and working hour saving system as well as detailed information on their usage. Please also provide information on the implementation of the 2018 amendments to the Labour Standards Act to reduce working hours, the trends in the average number of hours worked by men and women, as well as on any measures taken to address excessive overtime work and its impact on work–life balance.***

Part-time work. In its previous comment, the Committee had asked the Government to: (i) indicate how the Fixed-term and Part-time Workers Act had facilitated the moving of workers with family responsibilities from full-time work to part-time work, and vice versa, with an indication of the number of men and women using this option and the number of women moving back to full-time work; and (ii) indicate how the issue of female concentration in part-time work is addressed in the context of reconciling work and family responsibilities. The Committee notes that the Government did not provide the required statistical information but that it is promoting “convertible part-time jobs” whereby workers may choose to work part time for a certain period of time, provided that they go back to full-time employment at the end of the

period. The Government is providing employers, offering convertible part-time employment, subsidies to cover their expenses as well as “customized consulting”. In addition, it underlines that the right to reduce hours of work applies equally to men and women, encouraging both parents to work together in balancing work and family. The Committee notes the FKTU’s indication that, whereas women represented 35.4 per cent of regular workers and 53.8 per cent of non-regular workers in 2015, they accounted for 69.2 per cent of part-time workers and that most part-time jobs are not chosen voluntarily and are not properly paid in proportion to hours worked. The FKTU adds that the significant employment segregation by gender in part-time jobs could have a negative impact on the measures against gender-based discrimination, wage levels and career development. In reply, the Government indicates that the female (aged 15 to 64) employment rate has been on an upward trend for several years, reaching 56.8 per cent in July 2016. It states that a survey carried out from April to June 2016 showed that childcare was the main reason for choosing a convertible part-time job and that, during the period of childbirth and childcare, women prefer part-time jobs for work–family balance. The Committee also notes the observations from KEF which, based on statistics from 2015, underlines that the proportion of part-time workers among female wage workers is relatively low by international comparison (15.9 per cent whereas the average for the countries of the Organisation for Economic Co-operation and Development (OECD) was 25.9 per cent in 2015) and that the proportion of female workers among the entire part-time workers was 62.6 per cent (compared to 68.7 per cent for the OECD). The Committee notes however that, according to statistics published on the website of MOGEF, the “part-time women’s employment rate among total women’s employment”, as of August 2017, was 41.2 per cent, and the women’s share of part-time employment represented 55.2 per cent. Recalling, once again, that the assumption that the main responsibility for family care and the household lies with women, thus reinforcing stereotypical attitudes regarding the roles of men and women and existing gender inequality, runs counter to the objectives of the Convention, the Committee draws the Government’s attention to its direct request under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). ***The Committee requests, once again, the Government to indicate: (i) the number of men and women using the possibility of moving from full-time work to part-time work, and vice versa, and the number of women moving back to full-time work; and (ii) the measures taken to avoid female concentration in part-time work, in the context of reconciling work and family responsibilities.***

Article 11. Employers’ and workers’ organizations. The Committee notes the information provided by the Government on the “Public–Private Work–Family Balance Council” which operates at both the national and regional level. At the national level, the Council is composed since May 2016 of representatives of the Ministry of Employment and Labour and other relevant ministries such as MOGEF, the Ministry of Welfare and Health and the Ministry of Strategy and Finance, representatives of the KEF, the Federation of Korean Industries, the Korea Chamber of Commerce and Industry, the Korea International Trade Association and the Korean Women Entrepreneurs Association, as well as representatives of the FKTU. It meets once every quarter. The objective of the Council is to monitor how work–family balance has been implemented, share best practices, implement public–private campaigns, understand the demand for better systems and identify and discuss areas for cooperation. At the regional level, the Council is composed, on a voluntarily basis, of heads of regional branches, municipal bodies, labour and management representatives, relevant agencies (such as the new job centres) and experts. It meets once a month. ***The Committee asks the Government to provide detailed information on the activities of the Public–Private Work–Family Balance Council and its recommendations relating specifically to workers with family responsibilities and to provide a copy of its annual report if any.***

Enforcement. The Committee notes the Government’s indication that there is no information available on relevant judicial or administrative decisions addressing discrimination on the basis of family or care responsibilities. ***The Committee asks the Government to provide information on the supervisory authorities and enforcement mechanisms, including the labour inspectorate and the National Labour Relations Commission, giving effect to the provisions of the Convention, as well as any administrative or judicial decisions relating to the application of the Convention. It also asks the Government to provide information, including statistical data disaggregated by sex, studies, surveys or reports that may enable the Committee to assess how the principles of the Convention are applied in practice, and how progress is being made to address existing inequalities between men and women workers with family responsibilities and between those workers and workers without such responsibilities.***

The Committee is raising other matters in a request addressed directly to the Government.

Kuwait

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1966)

Article 1 of the Convention. Protection of workers against discrimination in employment and occupation. Legislation and practice. In its previous comment, the Committee recalled that constitutional provisions, while important, have generally not proven to be sufficient in order to address specific cases of discrimination in employment and occupation and that, in any case, article 29 of the Constitution does not cover all the grounds set out in *Article 1(1)(a)* of the Convention nor all forms of discrimination in employment and occupation. It urged the Government to take concrete steps to explicitly prohibit direct and indirect discrimination based on race, sex, colour, religion, political

opinion, national extraction and social origin, with respect to all aspects of employment and occupation, and covering all workers. Recalling that addressing sexual harassment through criminal proceedings is normally not sufficient, it asked the Government to adopt specific legal provisions defining and prohibiting both quid pro quo and hostile environment sexual harassment in employment and occupation, and provisions addressing remedies and sanctions. The Committee notes that, in its reply, the Government refers once again to article 29 of the Constitution providing for equal rights without distinction on the basis of sex, origin, language or religion, as well as article 7 which provides that justice, liberty and equality are the pillars of society and that there is a firm bond of cooperation and mutual respect between citizens. The Government also indicates, once again, that the Criminal Code criminalizes sexual harassment in all its forms. The Committee notes that the Government, referring to article 70 of the Constitution, emphasises the fact that international treaties and Conventions have the force of law once they have been signed, ratified and published in the *Official Gazette*. They are therefore an integral part of the domestic legislation: all government bodies and institutions and all individuals are required to abide by their provisions and the courts must ensure that they are respected and protected. In this regard, the Committee recalls that constitutional clauses which expressly provide that international agreements and treaties prevail over national law, while important, do not exempt States from adopting national legislation to implement the principles laid down in the Convention. The provisions of the Convention, even where prevailing over national law, may not be sufficient in themselves to provide effective legal protection from discrimination to individual workers (see 2012 General Survey on the fundamental Conventions, paragraph 851). ***The Committee once again: (i) urges the Government to take concrete steps to explicitly prohibit direct and indirect discrimination based on race, sex, colour, religion, political opinion, national extraction and social origin, with respect to all aspects of employment and occupation, including recruitment, and covering all workers; (ii) asks the Government to adopt specific legal provisions defining and prohibiting both quid pro quo and hostile environment sexual harassment in employment and occupation, and providing for remedies and sanctions; and (iii) in the meantime, asks the Government to take the necessary steps to ensure that all workers are protected in practice against all forms of discrimination, including sexual harassment, in employment and occupation and to provide full information in this respect.***

Migrant workers, including domestic workers. The Committee notes that Kuwait's sponsorship system (*kafala*) – under which migrant workers' legal status is tied to their employers who act as their sponsors for obtaining a visa – has not been abolished. This system, which denies workers the opportunity of obtaining alternative employment, exposes migrant workers to abuse and undermines their ability to have recourse to means of redress. The Committee notes that, on 31 March 2016, the Public Authority for Manpower of the Ministry of Social Affairs and Labour published Decree No. 378/2016 allowing migrant workers in the private sector to transfer their sponsorship to a new employer without their current employer's consent after three years has elapsed since the date of issue of their work permit and provided that they give 90 days' notice to their current employer. The Committee understands, however, that this amendment to the sponsorship system does not apply to domestic workers. It recalls that all migrant workers must be protected against discrimination based, at least, on race, colour, sex, religion, political opinion, national extraction or social origin, as indicated in *Article 1(1)(a)* of the Convention.

The Committee notes with **interest** the adoption of the Domestic Workers Act (Act No. 68 of 2015) which, inter alia: (i) prohibits recruitment agencies from charging domestic workers any fees, either direct or indirect (article 4); (ii) prohibits recruitment agencies from advertising, promoting or categorizing them in any humanly degrading manner (including according to faith, gender, colour or cost) (article 5); (iii) specifies the particulars that must be contained in the recruitment contract (to be provided in both Arabic and English) (article 18) and (iv) gives domestic workers the right to be paid on a monthly basis (articles 7 and 20), the right to a weekly day off, annual paid leave, a 12-hour working day with rest (article 22) and an end-of-service benefit of one month a year at the end of their contract (article 23). It also prohibits the employer from retaining the domestic worker's personal identity document (unless the worker has agreed to this) (articles 12 and 22(4)) and from assigning the domestic worker any dangerous or humiliating work (article 10). It requires the employer to provide the domestic workers with food, clothing, medicine and medical treatment as well as suitable housing enabling decent living standards (articles 9 and 11). The Committee notes that, although the protection enjoyed by domestic workers under Act No. 68 is still not on par with the general labour law, it is a step towards addressing discrimination against domestic workers. The Committee notes, however, that under the Act domestic workers are not allowed to change employer without the consent of their current employer; that protection against discrimination and abuse, including sexual harassment, from employers is weak (specific sanctions are foreseen against recruitment agencies violating the provisions of the law, but not in cases where it is the employer who is violating the law); and that the Ministry of Interior must deport domestic workers considered as having "absconded" from their employer, even if they did so because of abuse from their employer (Article 51). In addition, the Committee notes that, in November 2017, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed its concern about the legal gaps in the Domestic Workers Act regarding the effective protection of these workers from abuse, exploitation and violence, including: the lack of labour inspection mechanisms; weak penalties imposed on labour recruitment agencies for abusive practices; the tying of the immigration status of the domestic workers to one employer or sponsor, and the requirement for the Ministry of the Interior to deport an "absconding" worker; the absence of sanctions applied to employers for withholding the passports of domestic workers or for failing to provide adequate housing, food, medical expenses, daily breaks or weekly rest days; and the absence of a requirement for employers to be present in dispute resolution between employers and domestic workers, as well as the absence of complaint mechanisms. The CEDAW

recommended, inter alia, that the Government continue its efforts to completely abolish the *kafala* (sponsorship) system (CEDAW/C/KWT/CO/5, 22 November 2017, paragraphs 36(e) and 37(f)). The Committee also notes the Government's statement that Act No. 69 of 2015 concerning the establishment of a closed joint stock company for the recruitment and employment of domestic workers was promulgated and the Kuwait Home Helper Operating Company has now been established with the objective of avoiding the negative aspects of recruitment agencies for domestic workers. It further notes the Government's indication that the Domestic Workers Department (DWD) within the Ministry of the Interior, which is responsible for reviewing complaints filed by domestic workers, has received numerous complaints which were resolved by amicable means. ***The Committee asks the Government to provide information on the application, in practice, of the Domestic Workers Act No. 68 of 2015, including on the gaps regarding the effective protection of domestic workers from abuse, exploitation and violence emphasised by the Committee as well as the CEDAW. It asks the Government to indicate if the Kuwait Home Helper Operating Company has completely replaced the pre-existing recruitment agencies and to provide information on its functioning and, if available, a copy of the annual report on its activities. It requests that the Government continue to provide information on all steps taken or envisaged to review the sponsorship system and to ensure the full application of the Convention in respect of all migrant workers, as well as information, including statistics, on the results of the examination of complaints by the Domestic Workers Department.***

Stateless persons or persons without nationality (Bidoons). The Committee notes that the Government attached to its report an information booklet from the Central Agency indicating that the estimated number of stateless persons or persons without nationality (Bidoons) – referred to by the Government as “illegal residents” – was approximately 100,000 in 2014. The Committee recalls that the Council of Ministers, by Resolution No. 1612 of 2010, adopted a road map to remedy this issue. The Committee notes the Government's indication that the Central Agency, in cooperation with the Civil Service Commission, the Kuwait Chamber of Commerce and Industry and the Union of Cooperative Societies is doing its utmost to enable stateless persons to find employment in the public and private sectors as well as in self-employment. According to the Government, there are 2,571 public sector or cooperative sector employees belonging to this group. The Government emphasizes that the decision to establish the Central Agency shows its willingness to find a solution to this issue. The Committee notes, however, that the United Nations Committee on the Elimination of Racial Discrimination (CERD), in its concluding observations, remained deeply concerned by the situation of Bidoons, many of which have lived in Kuwait for generations but are deemed “illegal residents” by the authorities and recommended that the Government find a durable solution to the problem faced by Bidoons, including by considering naturalizing those who have lived in Kuwait for long periods and have a genuine and effective link to the State (CERD/C/KWT/CO/21-24, 19 September 2017, paragraph 27). ***The Committee requests the Government to provide information on the results of the implementation of the road map adopted by the Council of Ministers (Resolution No. 1612/2010) and to provide information on the measures taken to ensure that all stateless persons or residents without nationality (Bidoons) are protected against discrimination in employment and occupation, including in accessing employment, on the grounds set out in the Convention. The Committee asks the Government to provide statistical data on the number of Bidoons living in the country and on their employment status.***

Article 2. National equality policy. The Committee notes the Government's indication that a technical cooperation project was signed with the International Labour Office in November 2014 setting out a number of activities relating to equality issues and that, through the implementation of these activities, there would be discussions on the formulation of a national policy. The Committee is aware that a seminar on equality and non-discrimination issues was held in November/December 2016. However, the labour law review that had been foreseen in the technical assistance programme documents has not been carried out. ***Recalling that the primary obligation of ratifying States is to declare and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof, the Committee asks the Government to provide information on the progress made towards the development and implementation of a comprehensive national policy for the elimination of discrimination in employment and occupation with respect to all the grounds set out in the Convention, including measures to raise awareness on equality and non-discrimination issues.***

Article 5. Special measures of protection or assistance. Work prohibited for women. The Committee notes the Government's indication that Articles 22 and 23 of the Private Sector Labour Act (Act No. 6 of 2010) – which prohibit the employment of women at night (with some exceptions) and in work that is hazardous, arduous or harmful to health or violates public morals – aim to protect women in general, including pregnant women. In this regard, the Committee recalls that a major shift over time has occurred from a purely protective approach concerning the employment of women to one based on promoting genuine equality between men and women and eliminating discriminatory law and practice. It draws the Government's attention to the distinction to be made between special measures to protect maternity, as envisaged in Article 5 of the Convention, and measures based on stereotypical perceptions of women's capabilities and their role in society, which are contrary to the principle of equality of opportunity and treatment and constitute obstacles to the recruitment and employment of women. The provisions relating to the safety and health of workers should provide for a safe and healthy environment for both men and women workers, while taking account of gender differences with regard to specific risks to their health. Moreover, with a view to repealing discriminatory protective measures applicable to women's employment, it may be necessary to examine what other measures, such as improved health protection of both men and women, adequate transportation and security, as well as social services, are necessary to ensure that women can access these types of employment on an equal footing with men (see 2012 General Survey, paragraphs 838–840). ***The***

Committee once again asks the Government to ensure that special measures for the protection of women are limited to that which is strictly necessary to protect maternity, and that these provisions do not impede access for women to employment and occupation. The Committee also invites the Government to consider the possibility of reviewing health and safety issues with a view to improving health protection for both men and women and adopting accompanying measures with respect to security and the availability of adequate transport and social services to enable women to access all types of employment on an equal footing with men. The Committee asks the Government to supply information on any measures adopted in this regard.

The Committee is raising other matters in a request addressed directly to the Government.

Lao People's Democratic Republic

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 2008)***

Legislation. Scope of application. The Committee previously noted that the new Labour Law (2014) excludes from its application, among others, civil servants. It also noted that it was unclear whether section 6 of the Labour Law (2014) excluded domestic workers by providing that they must “comply with the working contract”. Recalling that the principle of the Convention applies to all workers, the Committee asked the Government to indicate how civil servants and domestic workers were protected against discrimination in employment and occupation. The Committee notes the Government’s indication in its report that the Law on Government Officials No. 74/NA, of 2015, prohibits discrimination against government officials. The Government also indicates that it protects domestic workers’ interests by promoting the conclusion of labour contracts. The Committee recalls that, no provision in the Convention limits its scope as regards individuals or branches of activity, and consequently all workers, including domestic workers, should enjoy equality of opportunity and treatment on the grounds of the Convention in all aspects of employment and that legal and practical measures are needed to ensure their effective protection against discrimination (see 2012 General Survey on the fundamental Conventions, paragraph 795). *The Committee therefore asks the Government to provide more specific information on how it is ensured that domestic workers are protected against discrimination on the grounds set out in the Convention. It further asks the Government to provide a copy of the Law on Government Officials No. 74/NA of 2015, in one of the official languages of the ILO, and to identify the provisions that protect civil servants against discrimination in employment and occupation on the grounds set out in the Convention.*

Article 1(1)(a) of the Convention. Prohibition of discrimination. In its previous comments, the Committee noted that the new Labour Law (2014) defines discrimination in the workplace as “all action by the employer that hinders, is biased or limits opportunities for promotion and confidence on the part of the employee” (section 3(28)), and prohibits “direct or indirect discrimination by employers against employees in the labour unit” (section 141(9)). While there are provisions prohibiting gender discrimination, the Committee noted that the Labour Law (2014) no longer explicitly prohibits discrimination on the grounds of race, religion and beliefs, as previously provided for in section 3(2) of the Labour Law (2007), nor does it prohibit discrimination based on colour, political opinion, national extraction and social origin. The Committee therefore asked the Government to indicate the full list of grounds in respect of which discrimination is prohibited and the areas of employment and occupation that are covered under sections 3(28) and 141(9) of the new Labour Law (2014). It also asked the Government to provide information on how workers are protected in practice against direct and indirect discrimination and on the steps taken to promote workers’ and employers’ knowledge of the prohibited grounds of discrimination. The Committee notes that the Government’s report is silent on this issue, and therefore once again recalls the importance of clear and comprehensive definitions of what constitutes direct and indirect discrimination in identifying and addressing its many manifestations (see 2012 General Survey, paragraphs 743–745). It also notes that the Labour Law (2014) seems to prohibit discrimination by an employer towards its employees only, and recalls that the Convention covers a wider range of situations, including the situation of discrimination by an employee towards another employee. Finally, the Committee emphasizes that where legal provisions are adopted to give effect to the Convention they should include at least all the grounds set out in *Article 1(1)(a)*, namely race, colour, sex, religion, political opinion, national extraction or social origin. *The Committee therefore once again asks the Government to identify the full list of grounds of discrimination that are prohibited under sections 3(28) and 141(9) of the Labour Law (2014) and to clarify whether the prohibition of discrimination concerns both employment and occupation and applies equally to employers and employees. Please provide information on any administrative or judicial decisions applying and interpreting these provisions. The Committee once again asks the Government to indicate how workers are protected in practice against direct and indirect discrimination on all the grounds set out in Article 1(1)(a) of the Convention. It also reiterates its request that the Government provide information on any steps taken or envisaged to develop additional guidance for workers and employers, as well as law enforcement authorities, on the definition of direct and indirect discrimination and the prohibited grounds of discrimination in the Labour Law (2014).*

Discrimination based on sex. Sexual harassment. Previously, the Committee noted that section 83(4) of the Labour Law (2014) allows a worker to bring an end to the employment contract in the event of harassment or sexual harassment on the part of the employer, or when the employer ignores that sexual harassment, and that section 141(4) prohibits employers from violating the personal rights of employees, especially female employees, through speech, sight,

text, touch or touching inappropriate areas. However, the Committee noted that sexual harassment is not explicitly defined and prohibited in the Labour Law (2014), and that it is unclear how the above provisions protect workers from *all* forms of sexual harassment in employment, and provide for adequate remedies and sanctions. Recalling the importance of taking effective measures to prevent and prohibit both quid pro quo and hostile work environment sexual harassment, the Committee asked the Government to provide information on the measures taken to define, prevent and prohibit sexual harassment at work, and on the practical application of section 83(4) and 141(4) of the Labour Law (2014). The Committee notes the Government's indication that sections 128 and 129 of the Penal Law (2005) prohibit rape and that, with the cooperation of tripartite constituents, no cases of sexual abuse in employment were detected. As the Committee emphasized in paragraph 792 of its 2012 General Survey, addressing sexual harassment only through criminal proceedings is normally not sufficient, due to the sensitivity of the issue, the higher standard of proof applicable, which is harder to meet, especially if there are no witnesses, and the fact that criminal law generally focuses on sexual assault or "immoral acts", and does not cover the full range of behaviour that constitutes sexual harassment in employment and occupation. The Committee also considers that legislation under which the sole redress available to victims of sexual harassment is the possibility to resign, while retaining the right to compensation, does not afford sufficient protection for victims of sexual harassment, since it in fact punishes them and could dissuade victims from seeking redress. ***The Committee therefore asks the Government to provide information on the practical application of sections 83(4) and 141(4) of the Labour Law (2014), including with respect to cases of sexual harassment. The Committee also asks the Government to take action to define, prevent and prohibit sexual harassment in employment and occupation, both quid pro quo and hostile environment harassment, to provide for adequate sanctions and remedies, and to submit information in this regard. With a view to raising awareness on the issue, the Committee further encourages the Government to formulate and implement practical measures to prevent and eliminate sexual harassment in employment and occupation, in cooperation with employers' and workers' organizations, such as through guidebooks, training, seminars or other awareness-raising activities and to provide information on any progress made in this regard.***

Article 1(1)(b). Other grounds. The Committee previously noted that sections 87(1), 100 and 141(2) of the Labour Law (2014) provide protection against discrimination on the basis of pregnancy, marital status and HIV status in recruitment and termination of employment, but no longer prohibits discrimination based on nationality, age or socio-economic status, which were previously included in the Labour Law (2007). It therefore asked the Government to identify the measures taken to ensure the same level of protection against discrimination in employment and occupation, in particular on the ground of socio-economic status. ***Noting the lack of information provided, the Committee reiterates its request that the Government identify the measures taken, in consultation with employers' and workers' organizations, with a view to maintaining the same level of protection against discrimination on the additional grounds previously contained in the Labour Law (2007), with respect to all aspects of employment.***

Article 4. Activities prejudicial to the security of the State. For a number of years the Committee has been asking the Government to provide information on the application in practice of section 65 of the Penal Law (2005) which sets out a broad prohibition on activities considered to be prejudicial to the security of the State, including conducting "propaganda activities", and to indicate how it ensures that this provision does not result in practice in discrimination based on political opinion in employment and occupation. The Committee notes the Government's reference to section 44 of the Constitution, on freedom of association, and section 11 of the Trade Union Law (2007), on collective agreements. However, it notes with *regret* that the Government does not provide any information with regard to the practical application of section 65 of the Penal Law (2005). ***The Committee therefore once again asks the Government to provide detailed information on the practical application of section 65 of the Penal Law (2005), and in particular to indicate the steps taken to ensure that the provision does not in practice result in discrimination based on political opinion in employment and occupation, for example, by providing information on any complaints made by employees or extracts of any court decisions in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Lebanon

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1977)

Articles 1 and 2 of the Convention. Gender pay gap. The Committee recalls its previous comments in which it noted that, according to statistics published in October 2011 by the Central Statistics Office, in 2007 the gender pay gap was an estimated 6.2 per cent in services; 10.8 per cent in commerce; 21 per cent in agriculture; 23.8 per cent in manufacturing; and 38 per cent in transport and communications. ***In the absence of updated information in this regard in the Government's report, the Committee once again requests it to take the necessary steps to gather, analyse and communicate data on the remuneration of men and women and wage gaps in the different sectors of economic activity, including the public sector, and for different professional categories. The Committee once again requests the Government to adopt specific measures to rectify gender pay gaps, including raising awareness among employers, workers and their organizations of the principle of equal remuneration for men and women for work of equal value, and to provide information on any action taken to this end and on any obstacles encountered.***

Article 2. Legislation. Equal remuneration for men and women for work of equal value. For more than 40 years the Committee has been requesting the Government to ensure that the principle of equal remuneration for men and women for work of equal value is given full legal expression. The Committee notes with *regret* that the Government's report merely indicates that the new draft Labour Code is still under examination. ***The Committee is therefore bound to urge the Government to ensure that the draft Labour Code gives full legal expression to the principle of equal remuneration for men and women for work of equal value, in order to facilitate a broad scope of comparison encompassing not only equal or similar work, but also work of an entirely different nature that is of equal value overall. Expressing the firm hope that the Government will be in a position to report progress on this matter in the near future, the Committee asks the Government to provide a copy of the relevant provisions when they have been adopted.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1977)

Articles 1 and 2 of the Convention. Protection of workers against discrimination, including sexual harassment. Law and practice. For more than 20 years the Committee has been requesting that the Government introduce a definition and a general prohibition of direct and indirect discrimination on the grounds set out in *Article 1(1)(a)* of the Convention, within the framework of the Labour Code reform, applicable to all aspects of employment and occupation. The Committee recalls that the Labour Code currently in force (the Labour Code of 1946, as amended) only covers discrimination between men and women in certain aspects of employment (section 26) and does not provide effective protection against all forms of sexual harassment, namely quid pro quo and hostile working environment sexual harassment. Indeed, the only section of the Code that could be applied in cases of sexual harassment is a provision that authorizes employees to leave their jobs without notice when "the employer or his representative commits the offence of molestation of the worker" (section 75(3)). The Committee recalls in this regard that legislation under which the sole redress available to victims of sexual harassment is the possibility to resign, while retaining the right to compensation, does not afford sufficient protection for victims of sexual harassment since it punishes them and could therefore dissuade victims from seeking redress (see 2012 General Survey on the fundamental Conventions, paragraph 792). The Committee notes with *regret* that the Government's report does not contain any information on the progress or content of the ongoing reform of the Labour Code. However, the Committee observes that, according to the third annual report (2015) on the implementation of the National Strategic Plan for Women in Lebanon (2011–21), the Ministry of Labour has prepared a bill criminalizing sexual harassment in the workplace. ***Consequently, the Committee urges the Government to take the necessary steps to ensure that the new Labour Code contains provisions defining and prohibiting direct and indirect discrimination on at least all of the grounds set out in Article 1(1)(a) of the Convention, in all aspects of employment and occupation, as defined in Article 1(3), and all forms of sexual harassment (quid pro quo harassment and the creation of a hostile working environment). The Committee once again asks the Government to provide information on any progress made with a view to adopting the draft Labour Code. In the absence of full legislative protection against discrimination, the Committee also once again requests the Government to adopt specific measures to ensure, in practice, the protection of workers against discrimination on the grounds of race, colour, religion, political opinion, national extraction and social origin, and against sexual harassment in employment and occupation, including measures to raise awareness of these issues among workers, employers and their respective organizations, in order to improve prevention.***

Foreign domestic workers. Multiple discrimination. For more than ten years, the Committee has been examining the measures taken by the Government to address the lack of legal protection for domestic workers, most of whom are women migrants, since these workers are excluded from the scope of the Labour Code and are particularly vulnerable to discrimination, including harassment, on the basis of sex and other grounds such as race, colour and ethnic origin. The Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) noted with concern that "abuse and exploitation of migrant domestic workers continues to occur in spite of the measures taken by the State party". The CERD also noted with concern that "victims are often not able to seek assistance when they are forcibly confined to the residence of their employers or when their passports have been retained". The CERD recommended the following measures: "abolish the conditions that render migrant domestic workers vulnerable to abuse and exploitation, including the sponsorship system and the live-in setting"; "extend the coverage of the Labour Code to domestic work, thereby granting domestic workers the same working conditions and labour rights as other workers, including the right to change occupation, and subjecting domestic work to labour inspections"; "ensure that any specific legislation on domestic employment is aimed at tackling migrant domestic workers' increased vulnerability to abuse and exploitation"; and "conduct campaigns to change the population's attitudes towards migrant domestic workers and to raise awareness of their rights" (CERD/C/LBN/CO/18–22, 5 October 2016, paragraphs 41–42). The Government reports that domestic workers are covered by the Code of Obligations and Contracts, and once again refers to the model contract and the Bill on the employment of domestic workers. The Government also indicates that a Bill to ratify the Domestic Workers Convention, 2011 (No. 189), was submitted to the Council of Ministers and that the national steering committee of the Ministry of Labour, which is responsible for examining relations between employers and domestic workers, is currently developing significant measures to guarantee compliance with contracts and abolish the sponsorship system. However, the Government states that this process will take time. In this regard, the Committee notes the Government's indication that the Ministry of Labour and official bodies have not established restrictions regarding

changes of employer and that this is an issue that only concerns the worker and the employer. *Recalling its previous comments and noting with regret that the situation remains unchanged, the Committee urges the Government to take the necessary measures, in cooperation with the social partners, to ensure genuine protection for migrant domestic workers, in law and practice, against direct and indirect discrimination on all of the grounds set out in the Convention, including against sexual harassment, and in all areas of their employment, either through the adoption of a bill on the employment of domestic workers or, more generally, within the framework of the labour legislation. The Committee asks the Government to supply information on any progress made in this regard and on any legislative changes to abolish the sponsorship system. The Committee asks the Government, in particular, to ensure that any new regulations envisaged on the right of migrant workers to change employers do not impose conditions or restrictions likely to increase these workers' dependence on their employer and thus increase their vulnerability to abuse and discriminatory practices.*

The Committee is raising other matters in a request addressed directly to the Government.

Libya

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)

Article 1(b) of the Convention. Equal remuneration for men and women for work of equal value. The Committee notes with *interest* the Government's indication that under section 21 of the Labour Relations Act (LRA 2010), there shall be no discrimination in remuneration for work of equal value on the basis of race, colour, sex or religion. The Government further indicates that section 24 of the LRA 2010 prohibits discrimination between men and women in remuneration for work of equal value. *The Committee requests the Government to provide information on any relevant court cases regarding the application of sections 21 and 24 of the LRA 2010.*

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

Article 1 of the Convention. Definition and grounds of discrimination. Legislation. The Committee notes the Constitutional Declaration of August 2011 establishing a basis for the exercise of power in the transitional period until the adoption of a permanent Constitution. It notes that article 6 of the Constitution Declaration provides that Libyans are equal before the law, and that they enjoy equal civil and political rights and equal opportunities in all areas without distinction on the grounds of religion, belief, language, wealth, gender, kinship, political opinion, social status, or tribal, regional or familial adherence. The Committee notes that the principle of equality before the law and equal opportunities in article 6 of the Constitutional Declaration does not include reference to the grounds of race, colour, and national extraction, and that the term "social status" may be more restrictive than "social origin" contained in the Convention. The Committee further notes the draft Libyan Constitution, awaiting adoption by referendum, in which article 7 provides that men and women citizens are equal before the law and that any discrimination between them on the grounds of ethnicity, colour, language, sex, birth, political opinion, disability, origin or geographical affiliation is prohibited. The Committee notes, however, that the grounds of race, national extraction and social origin are not included in the prohibition of discrimination contained in the draft Constitution, and that this prohibition only covers citizens.

The Committee notes, from the 2017 Report of the United Nations High Commissioner for Human Rights (UNHCHR) on the situation of human rights in Libya, the adoption in 2015 of the Libyan Political Agreement (LPA 2015) which establishes a temporary executive authority, the Government of National Accord, which will remain in place until the adoption and implementation of the Libyan Constitution (A/HRC/34/42, paragraph 4). It notes that Governing Principle 8 of the LPA 2015 affirms the principle of equality between Libyans by providing for, among other things, "equal opportunity and rejection of any discrimination between them for whatever reason". The Committee notes the Government's general statement, in its report, that national legislation prohibits discrimination on the grounds of race, colour, sex, religion and national extraction. In this respect, the Government refers to section 3 of Law No. 12 of 2010 promulgating the Labour Relations Act (LRA 2010). However, the Committee notes that section 3 of the LRA 2010 prohibits discrimination only on the grounds of "trade union affiliation, social origin or any other discriminatory basis", and that the grounds of race, colour, sex, religion, political opinion and national extraction are not explicitly mentioned. The Committee further notes that the LRA 2010 does not appear to contain a definition of discrimination. It draws the Government's attention to paragraph 743 of its 2012 General Survey on the fundamental Conventions, in which the Committee recalled that clear and comprehensive definitions of discrimination in employment and occupation are critical in identifying and addressing the many manifestations in which it may occur. *Article 1(1)(a) of the Convention defines discrimination as "any distinction, exclusion or preference made on the basis of [certain grounds], which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation".* Through this broad definition, the Convention covers all discrimination that may affect equality of opportunity and treatment. Any discrimination – in law or in practice, direct or indirect – falls within the scope of the Convention. The Committee further recalls that when legal provisions are adopted, they should include at least all of the grounds of discrimination enumerated in *Article 1(1)(a) of the Convention. Consequently, the Committee asks the Government to:*

- (i) *consider amending article 7 of the draft Constitution to ensure that the grounds of race, national extraction and social origin are included as prohibited grounds of discrimination;*
- (ii) *include a definition of the term “discrimination” contained in section 3 of the Labour Relations Act (2010);*
- (iii) *confirm that the grounds of race, colour, sex, religion, political opinion, and national extraction would be included in the terms “any other discriminatory basis” of section 3 of the Labour Relations Act (2010) and revise section 3 to make that apparent;*
- (iv) *provide information on the concrete measures taken to ensure that direct and indirect discrimination on all of the grounds enumerated in Article 1(1)(a) of the Convention are prohibited, in law and in practice.*

Articles 1 and 2. Discrimination on the basis of race, colour or national extraction. Sub-Saharan migrant workers. In its previous comments, the Committee observed the lack of measures taken by the Government to address discrimination against migrant workers, especially those originating from sub-Saharan Africa, on the basis of race, colour or national extraction in employment and occupation and to provide information on the steps taken to prevent and eliminate the occurrence of ethnic or racial discrimination in employment and occupation. The Committee notes that the Government’s report is silent on this point. The Committee notes, from the 2017 Report of the UNHCHR on the situation of human rights in Libya, that Sub-Saharan Africans are especially vulnerable to abuse as a result of racial discrimination (A/HRC/34/42, paragraph 45). The Committee further takes note of the statement of the United Nations Committee on the Elimination of Racial Discrimination (CERD) at its ninety-fourth session in 2017 under its Early Warning and Urgent Action Procedures, and *deeply deplores* that black persons from sub-Saharan countries are being sold in slave markets in Libya, and that they are subject to colour-based racial discrimination. With regard to the forced labour practices involving sub-Saharan migrant workers in Libya, the Committee refers to its detailed comments under the Forced Labour Convention, 1930 (No. 29). *The Committee urges the Government to take immediate measures to address the situation of racial and ethnic discrimination against migrant workers originating from sub-Saharan Africa (including women migrant workers), in particular to bring an end to forced labour practices. It also asks the Government to provide detailed information on all of the measures it is taking to prevent and eliminate the occurrence of ethnic or racial discrimination in law and in practice in all aspects of employment and occupation. Further, the Government is asked to provide detailed information on the measures it is taking to promote tolerance, understanding and respect between Libyan citizens and workers from other African countries.*

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to supply full particulars to the Conference at its 108th Session and to reply in full to the present comments in 2019.]

Lithuania

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1994)

Articles 1 and 2 of the Convention. Equal remuneration for work of equal value. Legislation. The Committee takes note of the adoption of Law No. XII-2462 of 21 June 2016 establishing and implementing the new Labour Code, which entered into force on 1 July 2017. It notes that section 26(2)(4) of the new Labour Code provides that an employer shall ensure equal pay for work of equal value, and that section 140(5) provides that men and women shall receive equal pay for the same or equivalent work. “Same work” shall mean performing a work activity which, based on objective criteria, is the same as or similar to another work activity to such extent that both employees can be interchanged without a significant cost for the employer. “Equivalent work” shall mean that, based on objective criteria, the work does not require lower qualifications and is not less significant for the employer’s objectives than other comparable work. The Committee further notes the Government’s indication, in its report, that a draft Law is currently under consideration to establish uniform remuneration of workers in the public sector who perform work of the same complexity and requiring the same qualifications. The Committee draws the Government’s attention to the fact that even where the term “work of equal value” is provided for in the legislation, its scope may be narrower than the principle enshrined in the Convention as a result of too restrictive formulations requiring work of an equal level of complexity, responsibility and difficulty, or requiring the same qualifications (see 2012 General Survey on the fundamental Conventions, paragraph 677). *The Committee requests the Government to provide information on the practical application of sections 26(3) and 140(5) of the new Labour Code, including by providing examples of the manner in which the terms “work of equal value” and “equivalent work” have been interpreted in practice. It also trusts that the Government will take the necessary measures to ensure that the draft Law aiming at the harmonization of the remuneration of workers in the public sector will give its full expression to the principle of equal remuneration for men and women for work of equal value enshrined in the Convention. The Committee requests the Government to provide information on the status of the adoption of the draft Law, as well as a copy of the new legislation, once adopted.*

Gender pay gap. In its previous comments, the Committee noted that the differential in men’s and women’s average gross hourly earnings had continued to decrease from 21.6 per cent in 2008 to 11.9 per cent in 2011. The Committee notes with **concern**, from Eurostat and Statistics Lithuania, that, since 2011, the gender pay gap (average gross hourly earnings) increased again to 15.6 per cent in 2015. In 2015, earnings of men exceeded those of women in all

economic activities, except transportation and storage where women's earnings were 9.5 per cent higher than those of men. The pay gap between men and women was still particularly wide in financial and insurance activities (38.5 per cent), information and communication (29.5 per cent), human health and social work activities (26.3 per cent), and manufacturing (25.6 per cent). The Committee notes the Government's indication that the National Programme on Equal Opportunities for Women and Men for 2012–14 identified persistent discriminatory attitudes between men's and women's roles at work, and that therefore reduction of the gender segregation of the labour market and of the gender pay gap are still part of the priority goals of the new National Programme on Equal Opportunities for Women and Men for 2015–21, and its accompanying Action Plan for 2015–17. The Government states that, to this end, specific training on the improvement of gender equality in remuneration was conducted for employers from both the public and private sectors and educational events on equal pay for work of equal value were also planned in 2016–17 for social partners and companies. The Committee notes that the United Nations Human Rights Committee recently expressed concern about the persistent gender pay gap and recommended that the Government should strengthen its efforts to eliminate this gap by addressing differences in pay between men and women for work of equal value (CCPR/C/LTU/CO/4, 26 July 2018, paragraphs 15 and 16). ***The Committee trusts that the Government will make every possible effort to put an end to the increase and address the gender pay gap and its underlying causes, without delay, and requests the Government to provide information on the measures taken to this end, including in the context of the National Programme on Equal Opportunities for Women and Men (2015–21), as well as on the results achieved. Noting that section 23(2) of the new Labour Code provides that an employer who has more than 20 employees on average must submit to the work council and the trade union, at least once a year, updated information, disaggregated by sex and occupation, on the average pay of employees (except for managerial positions), the Committee requests the Government to continue to provide statistical information on the distribution of men and women in the different sectors of the economy and occupational levels and their respective levels of earnings.***

Articles 3 and 4. Objective job evaluation. Cooperation with workers' and employers' organizations. The Committee previously noted that workshops were organized between 2006 and 2009 to introduce the methodology for the assessment of jobs and positions, which was approved by the Tripartite Council in 2005, to representatives of trade unions and financial and human resources managers of private enterprises, and that there were plans for carrying out a survey on the implementation of this methodology. The Committee notes the Government's indication that a survey on the compliance with the methodology was conducted in July 2015 and, as a result, the Tripartite Council suggested an updating of the 2005 methodology at a further meeting. The Committee notes that section 26(2)(3) of the new Labour Code provides that an employer shall use uniform job evaluation criteria, and that section 140(3) provides that the remuneration systems are determined by collective agreement or, in the absence of such agreement (in workplaces with an average number of at least 20 employees) that it must be approved by the employer after information and consultation procedures, and be accessible to all employees. The Committee notes that such remuneration systems must list categories of employees by positions and qualifications, form of payment, highest and lowest pay rates for each category of workers, grounds and procedures for granting additional payments, and the pay indexation procedure. It further notes that, according to section 140(5) of the new Labour Code, the remuneration system must be designed in such a way as to avoid any gender discrimination or discrimination based on other grounds. The Committee notes from Eurostat that, in 2013, collective wage bargaining coverage of employees at all levels was only 19 per cent. ***The Committee requests the Government to provide information on the status of the revision process of the 2005 methodology for the assessment of jobs and positions undertaken by the Tripartite Council, and to provide a copy of the new methodology, once adopted. It also requests the Government to provide information on the practical application of sections 26(2)(3) and 140(3) and (5) of the new Labour Code, including by indicating how it is ensured that remuneration systems are based on objective job evaluation methods that are free from gender bias. Taking note of the adoption of the National Action Plan for the Strengthening of Social Dialogue for 2016–20, the Committee requests the Government to provide information on the steps taken, in cooperation with the social partners, to promote the principle of the Convention in branch, territorial and enterprise negotiations, and to ensure that work in sectors and occupations in which women are predominantly employed, is not being undervalued. Please provide information on any collective agreements containing provisions reflecting the principle of the Convention, as well as on any impact of the National Action Plan for the Strengthening of Social Dialogue in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1994)

Article 2 of the Convention. National equality policy. Referring to its previous comments, the Committee notes the Government's indication, in its report, that, within the framework of the implementation of the Inter-institutional Action Plan 2012–14 on the Promotion of Non-Discrimination, several training and public events were organized. It notes that a new Inter-institutional Action Plan 2015–20 on the Promotion of Non-Discrimination was adopted. It notes, however, that the European Union recently pointed out the regular underfinancing of anti-discrimination programmes and roughly estimated that anti-discrimination measures planned for 2016 were given only 35 per cent of the initial budget (European Union, Country report on non-discrimination, 2017, p. 105). ***The Committee asks the Government to provide information on the concrete steps taken in the context of the Inter-institutional Action Plan 2015–20 on the Promotion***

of Non-Discrimination or otherwise, to effectively promote equality of opportunity and treatment in employment and occupation, with respect to all of the grounds covered by the Convention, and to address discriminatory practices, and to provide information on the impact of such actions. It also asks the Government to provide information on the number, nature and outcome of cases of discrimination in the fields of employment and occupation, including with regard to sanctions imposed and remedies provided.

Equality of opportunity and treatment of men and women. The Committee notes the Government's indication that the National Programme on Equal Opportunities for Women and Men for 2012–14 identified persistent discriminatory attitudes concerning men's and women's roles at work. The Government also indicated that the promotion of equal employment opportunities for women and men and the reduction of sectoral and vocational labour market segregation are still one of the priority goals in the new National Programme on Equal Opportunities for Women and Men for 2015–21, and its accompanying Action Plan for 2015–17 which aims to increase opportunities for women, especially in rural areas, as well as self-employment. To this end, in 2015 and 2016 a number of activities were organized to promote women's economic empowerment. In this regard, the Committee notes that several surveys, training and public information campaigns, were undertaken by the Equal Opportunities Ombudsperson, in particular to address gender discrimination in recruitment. It notes, from the report of the Ombudsperson that, in 2017, there were 312 cases of discrimination based on gender submitted which represented almost 44 per cent of all complaints, half of which referred to discrimination in labour relations. However, it observes that in 146 cases the Ombudsperson refused to examine the complaint as it considered that it was not competent to do so. *The Committee asks the Government to provide information on the steps taken, in the context of the National Programme on Equal Opportunities for Women and Men 2015–21 and its accompanying Action Plan for 2015–17 or otherwise, to effectively reduce gender segregation in the labour market and to promote equality of opportunity and treatment of men and women in employment and occupation, including in recruitment, as well as on the results achieved. The Committee once again asks the Government to provide statistical information on the distribution of men and women in employment, disaggregated by economic sector and occupation.*

Equality of opportunity and treatment irrespective of race, colour and national extraction. Referring to its previous comments on the Roma community, the Committee takes notes of the Government's indication that in 2015, 389 Roma people participated in counselling sessions; 359 benefited from information services; and 55 took part in active labour market policy measures. The Government adds that, in order to address stereotypes concerning the Roma community at work, measures helping them to integrate the labour market have been envisaged within the Inter-institutional Action Plan 2015–20 on the Promotion of Non-Discrimination. However, the Committee notes that, in its 2016 report, the European Commission against Racism and Intolerance (ECRI) indicated that despite some progress in a number of fields, social marginalization of Roma people is still evident, for example in the areas of education and employment. Indeed, Roma people suffer from particularly high unemployment rates and some sources put the number of Roma people working in regular jobs in the formal economy at less than 10 per cent. The Committee further notes that the ECRI indicated that, following the unsatisfactory achievements following previous programmes, the authorities developed the new Action Plan for Roma Integration into the Lithuanian Society 2015–20 which includes, inter alia, measures in the areas of pre-school, school and adult education, as well as in employment. However, there was still some uncertainty concerning the funding of the measures envisaged within the Action Plan. The ECRI recommended that the Government should scale up the support for Roma education activities and take more specific measures to support the integration of Roma people into the labour market, such as the expansion of vocational training activities and the facilitation and promotion of their registration with the labour exchange, but also the expansion of adult education courses for Roma people beyond Vilnius (CRI(2016)20, page 9 and paragraphs 61, 67, 70 and 72). The Committee further notes that, in July 2018, the United Nations Human Rights Committee also expressed concern at reports that the Roma community continues to suffer from widespread discrimination, especially in the areas of employment and education, and was, in particular, concerned at the persistent low literacy rates among Roma people; the low percentage of Roma people with general education; the decrease in Roma people with secondary and higher education; and at the low employment rate amongst Roma, in particular women (CCPR/C/LTU/CO/4, 26 July 2018, paragraph 7). More generally, the Committee further notes that, in its concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) also expressed concern that many persons belonging to national and ethnic minorities reportedly experienced racial stereotyping and discrimination that negatively affected their access to the labour market (CERD/C/LTU/CO/6-8, 6 January 2016, paragraph 24). *The Committee requests the Government to strengthen its efforts, in collaboration with workers and employers or their organizations, to combat stereotypes and prejudices against national and ethnic minorities, including the Roma community, in education, employment and occupation, and effectively ensure equality of opportunity and treatment of those minorities, in conformity with the Convention. The Committee also asks the Government to provide specific information on the steps taken, within the framework of the Action Plan for Roma Integration into the Lithuanian Society 2015–20 or otherwise, to promote equal education and employment opportunities for members of the Roma community and the impact thereof. It further asks the Government to provide information on the number of cases where persons belonging to national and ethnic minorities, including the Roma community, have experienced racial stereotyping and discrimination in education, employment and occupation and whose cases have been reported to the Equal Opportunities Ombudsperson or the courts, as well as on the remedies provided.*

The Committee is raising other matters in a request addressed directly to the Government.

Malaysia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Articles 1(a) and (b), and 2 of the Convention. Equal remuneration for work of equal value. Legislation. For a number of years, the Committee has been noting that the national legislation does not reflect fully the principle of equal remuneration for men and women for work of equal value. It also noted that the definition of wages in the Employment Act 1955 and the National Wages Council Act 2011 does not encompass benefits in kind and excludes certain elements of remuneration as defined in the Convention. The Committee notes the Government's indication that the suitability of incorporating the principle of the Convention into its national legislation will be examined in the framework of the ongoing review of its labour legislation, and more particularly of the Employment Act. *Considering that giving full legislative effect to the principle of equal remuneration for men and women for work of equal value is of particular importance to ensure the effective application of the Convention, the Committee trusts that, in the course of the review of its labour legislation, the Government will take specific measures, in consultation with employers' and workers' organizations, in order to expressly incorporate the principle of equal remuneration for men and women for work of equal value into its national legislation. In this regard, the Committee requests the Government to ensure that its national legislation allows for the comparison not only of the same jobs, but also of work of an entirely different nature which is nevertheless of equal value, taking into account that equality must extend to all elements of remuneration as indicated in Article 1(a) of the Convention. The Committee requests the Government to provide information regarding the progress made in this regard. The Committee also reminds the Government that ILO technical assistance is available and requests the Government to consider forwarding a copy of the draft legislation to the Office for its review.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Mauritania

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

The Committee notes the observations from the General Confederation of Workers of Mauritania (CGTM) which were received on 31 August 2018. It requests the Government to provide its comments thereon.

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

The Committee notes the observations of the General Confederation of Workers of Mauritania (CGTM), dated 28 August 2015 and 30 August 2016, which highlight the existence in practice of significant gender discrimination in remuneration in relation to jobs of the same value. The CGTM also indicates that employers obstruct access for women to certain senior executive posts and points out that if women do reach that level, they do not receive the same treatment, they are paid a salary approximately 30 per cent lower than that of men, and they do not enjoy the same benefits linked to the posts that they occupy. The Committee notes that the Government, in its communication of 7 October 2015, rejects the CGTM's allegations and states that there is no gender wage discrimination.

Articles 1 and 2 of the Convention. Application of the principle. Legislation and collective agreements. In June 2009, the Conference Committee on the Application of Standards urged the Government to amend the Labour Code and Act No. 93-09 of 18 January 1993 issuing the general regulations for officials and contract employees of the State, in order to give full expression to the principle of equal remuneration for men and women for work of equal value in both the public and private sectors. Section 191 of the Labour Code provides that "under equal conditions of work, vocational qualification and output, wages shall be equal for all workers regardless of their origin, sex, age or status", which is more restrictive than the principle established by the Convention. The general collective labour agreement (CCGT) of 1974 refers to "equal conditions of work and output" (section 37) and Act No. 93-09 does not contain any provisions on equal pay. The Committee draws the Government's attention to paragraphs 672–681 of its 2012 General Survey on the fundamental Conventions, in which it explains the importance and the scope of the concept of "work of equal value" for enabling a comparison of different jobs since, because of historical attitudes and stereotypes regarding women's aspirations, preferences and capabilities, women and men do not occupy the same jobs. The Committee recalls that, in determining the respective values of two jobs under comparison, factors such as working conditions and vocational qualifications are relevant but it is not necessary for each factor to be equal in value as it is the overall value of the job that counts, namely when all the combined factors are taken into account. In addition, experience has shown that insistence on factors such as "equal conditions of work, skill and output" can be used as a pretext for paying women lower wages than men. The Committee recalls that, when there are discriminatory provisions in collective agreements, governments should take the necessary steps, in cooperation with the social partners, to ensure that provisions of collective agreements observe the principle of equal remuneration for men and women for work of equal value (see 2012 General Survey, paragraph 694). The Committee notes the Government's indication in its report that it has asked the social partners to communicate their views on the future revision of the Labour Code and the general collective labour agreement (CCGT) in order to align these instruments to international labour standards. *Highlighting once again the importance of the concept of "work of equal value" and in view of the persistent pay gap, the Committee trusts that the Government, in the context of the announced revision of the Labour Code and the CCGT, will soon take the necessary steps to amend section 191 of the Labour Code and section 37 of the CCGT and also Act No. 93-09 of 18 January 1993 so that they expressly establish the principle of equal remuneration for men and women for work of equal value.*

Application of the Convention in practice. The Committee recalls that appropriate data and statistics are crucial in determining the nature, extent and causes of unequal remuneration between men and women, to set priorities and design appropriate measures, and to monitor and evaluate the impact of such measures and make any necessary adjustments (see 2012 General Survey, paragraphs 887–891). *Referring to the conclusions formulated by the Conference Committee in June 2009 and in view of the lack of information on this subject, the Committee requests the Government to take the necessary steps to*

collect and analyse data on wages for men and women and invites it to undertake an examination of the causes of the gender remuneration gap in order to devise appropriate remedial measures.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Morocco

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1963)

Article 2 of the Convention. Equality of opportunity and treatment for men and women in employment and occupation. Public service. The Committee welcomes the indications provided by the Government in its report that, in the context of the Government Equality Plan (ICRAM 2012–16), the National Observatory of Gender Mainstreaming in the Public Service has been established. The Government indicates in this respect that 35 per cent of employees in the public service and 19 per cent of middle and higher-level employees are women. The Committee notes the study on the “Situation of women public employees in positions of responsibility in the public administration in Morocco”, published by the Observatory in 2012. The study identifies obstacles to access for women to these positions which are related, among other factors, to vocational segregation, the persistence of gender stereotypes and the issue of reconciling work and family responsibilities, the operation and behavioural standards in the public service (clientelism and networks, the sensitive issues of sexual harassment and discrimination), economic obstacles, and obstacles relating to the appealingness of positions of responsibility, as well as issues related to geographical mobility and transfers. The study also contains a number of recommendations, such as the reinforcement of the national policy of equality for men and women, the reforming of rules and practices relating to the appointment and management of personnel, the strengthening of the capacities of female civil servants, the introduction of affirmative action measures and the development of an environment conducive to the reconciliation of work and family life. In this respect, the Committee welcomes the adoption of “Basic Act No. 02-12 regarding the appointment to higher level positions under Articles 49 and 92 of the Constitution”, which was adopted on 17 July 2012 and covers the functions of persons in positions of responsibility in public establishments and enterprises and public administrations, setting as principles for appointment equality of opportunity and non-discrimination in all its forms in the choice of men and women candidates for higher-level positions, including in relation to political or trade union membership, language, religion, sex, disability, or any other reason that is incompatible with the principles of human rights and the provisions of the Constitution, as well as with gender parity. The Committee also notes the preparation of a study on the “Reconciliation of work and family for male and female civil servants in Morocco”, which recommends, among other measures, the reinforcement of existing statistical tools, the promotion of legislative measures and regulations to promote the reconciliation of work and family life, including parental leave, the development of family support services for personnel (crèches for young children), measures to make the working environment more favourable to equality between men and women and workers with family responsibilities, the placing of greater value on paid work for women and action to combat stereotyped gender roles (the preparation of an equality charter, information and awareness-raising measures). *Noting that this information demonstrates the commitment of the Government to promoting genuine equality between men and women in the public service by combating the deep-rooted causes of inequalities and the numerous obstacles faced by women, the Committee asks the Government to provide information on any measures adopted in this respect, and particularly on the actions taken to give effect to the recommendations contained in the two studies referred to above. The Committee also asks the Government to provide information on the effectiveness in practice of Basic Act No. 02-12 and its impact on the appointment of women to higher-level positions in public establishments and enterprises and public administrations.*

Gender equality. Private sector. With regard to the implementation of the Government Equality Plan (ICRAM 2012–16), the Committee notes the Government’s indication in its report that specific measures have been adopted to strengthen the enforcement of legislative provisions and regulations regarding work performed by women. It also notes that, according to a Government evaluation of the Plan, of the 156 measures envisaged, 117 have achieved an implementation rate of 100 per cent and that measures which it has not been possible to implement will be put into effect in the context of a second plan. The Committee notes the adoption by the Government on 3 August 2017 of the ICRAM 2 Plan for the period 2017–21 which covers, among other areas, the increase of employment opportunities for women, the promotion of equality and action to combat discrimination and stereotypes. The Committee also welcomes the Government’s indications that it provides financial support to associations working to improve the working conditions of women and that in 2016 it organized the first Ministry of Employment and Social Affairs (MEAS) Trophy for vocational equality intended for enterprises which have made progress in ensuring that equality is taken into account in the enterprise culture and human resources management, as well as parenthood within a professional context. The Committee notes that this Trophy allowed 19 enterprises, out of 34 participants, which met the selection criteria, to be provided with a MEAS certificate, and that the Trophy was awarded to the first three enterprises. *The Committee asks the Government to provide information on any measures adopted to improve the opportunities for women to access vocational training and employment, to diversify their employment opportunities and to combat gender discrimination and stereotypes. The Government is asked to provide detailed information on the results achieved in the context of the ICRAM and ICRAM 2 Plans, particularly in relation to the participation of women in the labour market in urban and rural areas.*

Body responsible for promoting equality and combating discrimination. The Committee welcomes the adoption on the second reading by the House of Councillors on 9 August 2017 of the Bill on the Authority for Parity and Action to Combat all Forms of Discrimination (APALD). ***The Committee asks the Government to provide information on the areas of competence, methods of work and composition of the APALD, and on the establishment of this institution and its specific activities to combat discrimination and to promote equality in employment and occupation.***

The Committee is raising other matters in a request addressed directly to the Government.

Mozambique

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1977)

Article 1 of the Convention. Legislation. Since 2009, the Committee has repeatedly requested the Government to take all necessary steps to amend section 108 of Labour Act No. 23/2007, which provides for the right to equal pay for equal work, with a view to ensuring that it fully reflects the principle of equal remuneration for men and women for “work of equal value”. Noting the Government’s indication that the principle of the Convention is covered by this provision, the Committee once again recalls that the concept of “work of equal value” includes, but goes beyond equal remuneration for “equal”, “the same” or “similar” work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value. ***The Committee once again asks the Government to take all necessary steps to amend section 108 of Labour Act No. 23/2007 in order to bring it fully in line with the Convention. The Committee also reminds the Government of the possibility of availing itself of ILO technical assistance to this end.***

The Committee is raising other matters in a request addressed directly to the Government.

Namibia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)

Article 1(1)(b) of the Convention. Additional grounds. Legislation. The Committee recalls its previous comments in which it noted that while the general non-discrimination provision of the Labour Act (section 5) includes the grounds of HIV and AIDS, degree of mental disability and family responsibilities, these grounds are not included under section 33 of the Act which prohibits unfair dismissal. The Committee notes the Government’s indication that a task force comprising representatives of workers, employers and the Government was set up and is reviewing the Labour Act section by section. The Government adds that the request from the Committee to consider including specific provisions prohibiting dismissal based on the grounds of HIV and AIDS status, the degree of physical or mental disability and family responsibilities with a view to ensuring consistency between sections 5 and 33 of the Labour Act, will be taken into consideration during this process. ***The Committee hopes that, further to the review process of the Act, the Government will amend the Labour Act so as to extend the prohibition on dismissal to ensure that dismissal on the grounds of HIV and AIDS status, the degree of physical or mental disability and family responsibilities is prohibited and therefore introduce consistency between sections 5 and 33 of the Labour Act. Recalling that section 6.2(2)(iii) of the 2007 National Policy on HIV and AIDS prohibits termination of employment on the grounds of HIV status or family responsibilities relating to HIV/AIDS, the Committee asks the Government to provide information on any case of a violation dealt with by labour inspectors and labour courts.***

Articles 2 and 5. Implementation of the equality national policy and affirmative action. The Committee notes with **interest** the adoption of the National Human Rights Action Plan (NHRAP) 2015–19 which identifies as one of the main areas of focus “the right not to be discriminated against”, in particular with respect to certain groups including women, indigenous peoples, persons with disabilities and LGBTI persons. The Committee notes that the following actions are envisaged: (i) a comprehensive review of the regulatory framework to assess non-discrimination compliance; (ii) the development of a White Paper on Indigenous Peoples’ Rights; (iii) research of comparable legal instruments providing protection of the rights of persons with disabilities and developing benchmarks (i.e. building design standards); (iv) research and review of laws and policies to identify and rectify provisions that discriminate against “vulnerable groups” (i.e. women, children, elderly persons, sexual minorities, persons with disabilities and indigenous peoples); (v) the review of the Affirmative Action (Employment) Act (Act No. 29 of 1998) with a view to establishing the continued relevance of race as part of the affirmative action criteria; and (vi) the review of the current Racial Discrimination Prohibition Act (Act No. 26 of 1991) with a view to enacting new legislation against discrimination. In this regard, the Committee welcomes the publication by the Office of the Ombudsman of the Special Report on Racism and Discrimination that gives a full picture of the situation in the country, including in education and employment, and makes specific and detailed recommendations to the Government and the employers’ organizations to address all forms of discrimination in the country. Those recommendations include: (i) for the Government: to raise awareness among employers and employees of the prohibition of discrimination in employment and the remedies for victims; to develop and disseminate programmes and strategies to eliminate discrimination in employment; to provide support to victims; and to resolve speedily disputes relating to discrimination; and (ii) for employers’ organizations: to ensure that recruitment procedures, including job advertisements, are free from bias; to review qualifications and experience requirements to ensure their relevance for the

job; to train senior and middle management to detect manifestations of discrimination in the workplace; to cooperate with workers' organizations and representatives to develop procedures to deal with racial discrimination and other forms of discrimination, including sexual harassment; and to take steps to broaden the pool of candidates for jobs among "previously disadvantaged groups". *The Committee asks the Government to provide information on the implementation of the NHRAP (2015–19) regarding equality and non-discrimination issues, in particular with respect to any legislative developments and the adoption of practical measures such as awareness-raising campaigns for mutual tolerance and respect and appropriate training, and to communicate copies of any implementation or assessment reports available. The Committee also asks the Government to provide information on any measures taken or envisaged to implement the recommendations made by the Ombudsman in its report in the fields of education, training and employment, as well as information, where available, on any steps taken by employers' organizations in this regard.*

With respect to the implementation of the Affirmative Action (Employment) Act (Act No. 29 of 1998) to address the under-representation of persons within "designated groups" (i.e. "racially disadvantaged persons", women, persons with disabilities), the Committee notes from the Government's report containing data for the periods 2013–14 and 2014–15 and the Employment Equity Commission's (EEC) Annual Report 2015–16, that there had been a 10 per cent increase in the number of reports received from relevant employers (that is, employers with 25 employees or more), totalling 763 for 2015–16. The number of employees covered by the affirmative action reports also increased by 18 per cent (199,126 employees across all industrial sectors for 2015–16). The Committee notes that, according to the EEC Report 2015–16, although the previous racially disadvantaged employees constituted 93 per cent of the total number of employees covered by the employers' reports, only 28 per cent of them occupied positions at the executive director level (compared to 58 per cent occupied by "whites"). According to the same EEC Report, however, they improved their representation at the management level from 56 per cent in 2014–15 to 66 per cent in 2015–16. The EEC Report adds that for 2015–16, women represented only 44 per cent of employees at managerial positions (compared to 39 per cent for 2014–15), and persons with disabilities accounted for 0.4 per cent of the workforce. The Committee further notes from the Government's report that the EEC pressed charges against a number of employers who failed to comply with the Affirmative Action Plan and 53 were convicted during 2014–15. In this regard, the Committee welcomes the Government's indication that the assignment of a police officer to the EEC had a positive impact on the speedy and timely prosecution of the offenders. The Committee also notes the New Equitable Economic Empowerment Framework Bill 2015 which aims to promote the achievement of the constitutional right to equality and to bring about socio-economic transformation in order to enhance equity, social justice and empowerment of the previously disadvantaged majority, and to promote a higher economic growth rate, increased employment and more equitable income distribution. *Noting the EEC Report's conclusion that "the pace of progress towards an equitable representation [of persons from designated groups] is regrettably slow", in particular at the upper levels of management and therefore at higher remuneration levels and noting too the under-representation of persons with disabilities at all occupational levels, the Committee asks the Government to step up its efforts to promote access to training and employment opportunities for designated groups, in particular at the managerial level and above, and to continue to review regularly the affirmative action measures to assess their relevance and impact. The Government is asked to provide information on any measures taken to this end and any legislative developments regarding the New Equitable Economic Empowerment Framework Bill 2015.*

The Committee is raising other matters in a request addressed directly to the Government.

Papua New Guinea

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ***(ratification: 2000)***

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. Legislation. Referring to its previous comments regarding legal protection against discrimination on the basis of the grounds set out in *Article 1(1)(a)* of the Convention, the Committee welcomes the Government's indication in its report that section 8 of the final draft of the Industrial Relations Bill prohibits direct and indirect discrimination on the grounds of race, colour, sex, religion, pregnancy, political opinion, ethnic origin, national extraction or social origin, against an employee or applicant for employment or in any employment policy or practice. The Government adds that further consultations were held between the National Tripartite Consultative Council (NTCC) and the State Solicitor's Office in order to make final amendments to the Bill which was anticipated to be enacted in 2015. The Committee notes that the Government does not provide information on progress made concerning the review of the Employment Act, 1978, including the revision of sections 97–100 which prohibit only sex-based discrimination against women. It notes that the Decent Work Country Programme for 2013–15, which has been extended until 2017, has set as a priority the completion of the Industrial Relations Bill, and revisions of the Employment Act through the delivery of a new Employment Relations Bill. *While noting that none of these Bills have been enacted to date, the Committee trusts that the Industrial Relations Bill will be adopted in the near future, and requests the Government to provide information on progress made in this regard. It also requests the Government to provide information on progress made concerning the review of the Employment Act 1978, and in particular sections 97–100, in collaboration with workers' and employers' organizations, with a view to aligning the provisions on discrimination with the Industrial Relations Bill and to bring them into conformity with the Convention.*

Discrimination on the ground of sex in the public service. For over 15 years, the Committee has been referring to the discriminatory impact of section 36(2)(c)(iv) of the Public Services (Management) Act 1995, which allows calls for candidates to specify that “only males or females will be appointed, promoted or transferred in particular proportions”, and section 20.64 of General Order No. 20 as well as section 137 of the Teaching Services Act 1988, which provide that a female official or female teacher is only entitled to certain allowances for their husband and children if she is the breadwinner. A female officer or female teacher is considered to be the breadwinner if she is single or divorced, or if her spouse is medically infirm, a student or certified unemployed. The Committee notes with *deep regret* that despite the adoption of a new Public Services (Management) Act in 2014, which repealed the Act of 1995, section 36(2)(c)(iv) referred to above has been maintained. It however notes that the National Public Service Policy on Gender Equity and Social Inclusion (GESI) adopted in 2013, and its action plan, set as priority action the revision of employment conditions in order to ensure equal access and employment conditions for all individuals regardless of gender. *Noting the discriminatory impact of section 36(2)(c)(iv) of the Public Services (Management) Act 2014, section 20.64 of General Order No. 20 and section 137 of the Teaching Services Act 1988, the Committee urges the Government to take expeditious steps to review and amend these laws in order to bring it in line with the requirements of the Convention. It also requests the Government to provide information on any measures taken as a result of the GESI policy and action plan and any progress made to ensure equality of opportunity and treatment between men and women in the public service.*

Discrimination against certain ethnic groups. Referring to its previous comments concerning the allegations made by the International Trade Union Confederation (ITUC) on the increased violence against Asian workers and entrepreneurs, who were blamed for “taking away employment opportunities”, the Committee notes that the Government does not provide any information in this regard. *The Committee once again requests the Government to investigate the allegations of discrimination against Asian workers and entrepreneurs including incidents of violence and to provide information on the results of such investigations. It also requests the Government to provide information on concrete measures taken to ensure protection in the context of employment and occupation, against discrimination on the grounds of race, colour, or national extraction, as well as on any measures taken or envisaged to promote equality of opportunity and treatment of members of different ethnic groups in employment and occupation.*

Article 2. National equality policy. The Committee notes that the Government still does not provide information on a national policy specifically addressing discrimination on all the grounds enumerated in the Convention. With regard to discrimination based on sex, the Committee notes that some sections of the National Public Service Policy on Gender Equity and Social Inclusion of 2013 and the National Policy for Women and Gender Equality for 2011–15 seem to address the issue of gender equality in employment and occupation. The Committee recalls that, even though the relative importance of the problems relating to each of the grounds may differ for each country, when reviewing the situation and deciding on the measures to be taken, it is essential that attention be given to all the grounds of discrimination set out in the Convention in implementing the national equality policy, which presupposes the adoption of a combination of legislative and administrative measures, collective agreements, public policies, affirmative action measures, dispute resolution and enforcement mechanisms, specialized bodies, practical programmes and awareness raising (2012 General Survey on the fundamental Conventions, paragraphs 848–849). *The Committee again urges the Government to provide full particulars on the specific measures taken or envisaged, in collaboration with workers’ and employers’ organizations, to implement a national policy aimed at ensuring and promoting equality of opportunity and treatment in employment and occupation on all the grounds enumerated in the Convention.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Peru

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1960)

The Committee notes the observations of the Association of Trade Union Confederations of Peru (Association of Confederations), received on 28 September 2017, and of the Autonomous Workers’ Confederation of Peru (CATP), together with numerous trade union organizations, received on 2 September 2017, and also the corresponding replies of the Government. The Committee also notes the Government’s reply to the observations of the General Confederation of Workers of Peru (CGTP) of 16 September 2014, which were referred to in the Committee’s previous observation.

Articles 1 and 2 of the Convention. Pay gap. In its previous observation, the Committee asked the Government to take steps to identify and tackle the underlying causes of the existing wage gap and to provide information on any developments in this respect, and on the measures taken to raise awareness of the principle of the Convention. The Committee also asked the Government to supply statistics, disaggregated by sex, on the distribution of men and women in the labour market and on their remuneration. The Committee notes the statistics supplied by the Government in its report, according to which the average monthly earnings of women in 2015 and 2016 amounted to 71.4 and 70.8 per cent, respectively, of men’s earnings. The Committee also notes the Government’s indication that, according to the March 2017 report on women in the Peruvian civil service, drawn up by the National Civil Service Authority (SERVIR), pay differences between men and women decreased from 24 to 16 per cent between 2008 and 2015, including because of the increased presence of women in occupations with better average remuneration. The Committee further notes the March 2018 report on women in the Peruvian civil service, according to which the pay gap increased from 16 to 18 per cent between 2015 and 2016. The Committee also notes the Government’s reference to the report “Gender gap 2017: Progress towards equality between men and women”, published by the National Institute of Statistics and Information Technology (INEI). The report indicates that: (i) the majority of working women are self-employed (35.7 per cent) or are unpaid family workers (17 per cent); (ii) by type of occupation, the smallest pay gap is found between professional and technical workers, and the largest gap between those working in agriculture, where women’s earnings are half those of men; (iii) one of the main reasons for existing gaps is the fact that women work fewer hours in order to take care of their families; and (iv) the acquisition of more educational qualifications by women does not necessarily reduce the earnings

difference in relation to men. Moreover, the Committee notes the observations of the CATP and the Association of Confederations, stating that employees receive different pay according to the type of contract, which makes the type of contract a significant variable in reducing the gender pay gap. The Committee also notes that the CGTP refers in its observations to the impact of the various labour regimes established in the national legislation on reducing earnings in sectors employing large numbers of women, with an impact on the existing pay gap. The Committee notes the Government's reply to the observations of the CGTP indicating that: (i) national employment policies include strategies that seek to implement positive action mechanisms for women to reduce occupational sex segregation; and (ii) gender mainstreaming in such policies is a long-term process.

With regard to the measures taken to tackle the underlying causes of the existing pay gap, the Government states in particular that on 24 June 2017 Supreme Decree No. 068-2017-PCM was published, which provides that entities within the Executive Authority (ministries and public bodies) shall conduct an internal assessment of the gender pay gap and its causes, with a view to planning action to end gender pay inequalities. In this regard, the CATP and the Association of Confederations observe that public sector employees only account for 8.9 per cent of men in employment and 9.5 per cent of women in employment. Furthermore, the Committee also notes the Government's indication, in reply to the observations of the CATP, to which the Committee referred in its previous observation, that: (i) the National Gender Equality Plan 2012–17 (Gender Equality Plan) addressed issues relating to the pay gap in the context of its strategic objective 5 (“guaranteeing the economic rights of women in conditions of equity and equality of opportunity in relation to men”); (ii) the Human Rights Plan 2014–16 included the objective of “reducing the gender pay gap”; (iii) the “Intersectoral Action Plan for the empowerment and economic autonomy of women” seeks, inter alia, to reduce gender disparities in terms of both access to employment and earnings; and (iv) a sectoral strategy for equality and non-discrimination in employment and occupation is being drawn up, which proposes, inter alia, to conduct an assessment of pay gaps and gender discrimination in the private sector. In this regard, the Committee notes Ministerial Decision No. 061-2018-TR of 23 February 2018, which approves the “Sectoral Plan for equality and non-discrimination in employment and occupation (2018–21)”. The Committee also notes that the Government provides information on the *Cuna Más* National Programme and the recognition of paternity and maternity leave, which are examined in its comments on the Workers with Family Responsibilities Convention, 1981 (No. 156). The Committee further notes that, according to information on the website of the Ministry for Women and Vulnerable Population Groups, the period of validity of the Gender Equality Plan was extended at the end of 2017 to enable a new plan to be designed for the next phase. With regard to these points, the Committee notes that the CATP and the Association of Confederations, in their observations of September 2017, emphasize in particular that: (i) the Gender Equality Plan focuses in particular on the public sector and there is no information indicating how the results of that Plan have contributed to reducing the gender pay gap; (ii) with regard to the Human Rights Plan 2014–16, no assessment, results or methodology have been presented on pay gaps in the public and private sectors; and (iii) the trade union confederations have not been called upon regarding the sectoral strategy referred to by the Government. The CATP and the Association of Confederations also refer to the lack of consistency in public policies. The Committee notes the Government's indication that the successes achieved in implementing the abovementioned measures have contributed towards reducing or eliminating the factors that influence the gender pay gap. ***While duly noting all the above information and so as to be in a position to evaluate the results achieved through the different measures adopted to promote the principle of the Convention, the Committee requests the Government to: (i) systematically evaluate, in cooperation with the workers' and employers' organizations, the plans and programmes adopted to promote the principle of the Convention and to send detailed information on the results achieved in reducing the gender pay gap in the private sector and also on any follow-up action taken, including the definition of tasks and indicators designed to monitor the implementation of these actions; (ii) provide information on the results of assessments of the gender pay gap in the public and private sectors, and the follow-up actions taken in cooperation with workers' and employers' organizations; and (iii) continue providing information on the specific measures taken or planned to tackle the underlying causes of the existing pay gap, including information on any relevant measures taken in the context of the sectoral strategies on equality and non-discrimination and on the empowerment and autonomy of women, and their impact on reducing the gender pay gap.***

With regard to awareness-raising measures, the Committee notes the information provided by the Government on the awareness-raising activities carried out in 2015 and 2016 on the subject of equal opportunities for men and women, and the initiative to award the “Safe and free of violence and discrimination against women” label to enterprises. It also notes the observations of the CATP and the Association of Confederations that it would be appropriate to evaluate the impact of the above activities. ***The Committee requests the Government to: (i) continue taking measures to promote better public understanding of the principle of equal remuneration for men and women for work of equal value and to provide information in this regard, also indicating the beneficiaries of such measures; and (ii) continue sending statistics, disaggregated by sex, on the distribution of men and women in the labour market and on the remuneration received by men and women in each sector of economic activity.***

Articles 1 and 3. Work of equal value and objective job evaluation. In its previous observation, the Committee urged the Government to take the necessary measures to adopt an objective job evaluation system without delay. It also asked the Government to provide more details of the “Guide to the application of the principle of equal remuneration for men and women”, which it was planned to draw up. The Committee notes the Government's indications that: (i) the process of drawing up the guide could not go ahead for economic reasons; and (ii) the “Sectoral Plan for equality and non-

discrimination in employment and occupation (2018–21)” includes in its strategic actions the adoption of a specific methodology for the evaluation of jobs without gender bias in order to ensure pay equality. The Committee also notes that the Government refers to the Act prohibiting Gender Pay Discrimination (No. 30709 of 26 December 2017), the objective of which is to prohibit pay discrimination between men and women by establishing categories, duties and remuneration that make it possible to implement the principle of “equal remuneration for men and women for work of equal value” (section 1). While noting that the Act does not fully reflect the principle of the Convention, which also encompasses work of a completely different nature which is nevertheless of equal value, the Committee notes that the implementing regulations for the Act, adopted by Supreme Decree No. 002-2018-TR of 8 March 2018, provide, *inter alia*, that: (i) the employer must evaluate and group jobs together in scales of categories and duties, applying objective criteria, on the basis of the tasks involved, to the necessary skills for performing them and to the job profile (section 3.1); and (ii) should there be any allegations of direct or indirect gender-based pay discrimination, the employer must demonstrate that the jobs involved “are not equal and/or do not have the same value” (section 5.2). In this context, the Committee recalls that while the Convention does not prescribe any specific method for such an examination, *Article 3* presupposes the use of appropriate techniques for objective job evaluation, comparing factors such as skill, effort, responsibilities and working conditions (2012 General Survey on the fundamental Conventions, paragraph 695). Furthermore, the Committee notes that the CATP and the Association of Confederations observe that it would be appropriate to amend the Labour Productivity and Competitiveness Act, since the duties in an employment relationship and the corresponding remuneration are currently fixed for each contract according to the outcome of negotiations between the employer and the worker concerned, thereby leaving the employer with some leeway to define duties and levels of pay that could have an impact on the application of the Convention. *In view of the above, the Committee requests the Government to: (i) provide information on the job evaluation methodology drawn up as part of the Sectoral Plan for equality and non-discrimination in employment and occupation (2018–21); (ii) provide detailed information on the application of Act No. 30709 and its implementing regulations, and on its impact on promoting the principle of equal remuneration for men and women for work of equal value; and (iii) indicate how the application of Act No. 30709 is ensured with respect to the situation observed by the CATP and the Association of Confederations regarding the Labour Productivity and Competitiveness Act.*

Recalling the importance of ensuring that men and women have a clear legal basis for asserting their right to equal remuneration for work of equal value vis-à-vis their employers and the competent authorities and noting that Act No. 30709 refers to the principle of equal remuneration for “equal work” – which is narrower than the principle of the Convention – whereas its implementing regulations cover not only equal work but also “work of equal value”, the Committee requests the Government to harmonize its legislation so as to fully incorporate the principle of equal remuneration for men and women for work of equal value, as enshrined in the Convention, and to provide information on any developments in this respect.

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1970)

Articles 1 and 2 of the Convention. Discrimination on the basis of sex, colour and race. In its previous observation, the Committee asked the Government to evaluate the impact on access to employment for women and indigenous workers and their conditions of employment, of the following instruments establishing special labour regulations and to provide information on them: Legislative Decree No. 1057 of 28 June 2007 establishing the administrative services contract (CAS); Act No. 28015 of 2 July 2003 and Legislative Decree No. 1086 of 27 June 2008 promoting the competitiveness, formalization and development of micro- and small enterprises and access to decent employment; Act No. 27360 of 30 October 2000 approving standards relating to the agricultural sector; and Act No. 27986 of 2 June 2003 concerning domestic workers. The Committee also asked the Government: (i) to provide statistics, disaggregated by sex, indicating the number of workers hired in the public sector under the various types of contract and in the private sector under the terms of Acts Nos 28015, 27360 and 27986, and, where possible, indicating the proportion of indigenous workers; and (ii) to provide information on the measures taken to ensure the effective application of the legislation prohibiting discrimination in job vacancies on grounds of race, colour or sex.

The Committee notes the Government’s indication in its report that: (i) as a result of Act No. 29849 of 5 April 2012, the rights of public servants covered by the CAS scheme were increased (including maternity and paternity leave); (ii) the CAS is gradually being replaced by the scheme regulated by the Civil Service Act (No. 30057 of 3 July 2013), which seeks to establish a single, exclusive scheme for individuals who provide services in state entities, and for people responsible for the management of these entities, the exercise of their authority and the provision of the corresponding services; and (iii) in 2017, public servants on CAS contracts accounted for 22 per cent of public employment governed by special labour regulations, with 48 per cent of CAS posts occupied by women. The Government also provides information on various standards adopted between 2011 and 2017 in relation to issues of equality and non-discrimination, which apply to various public service schemes (including those established by the regulations implementing the Civil Service Act – adopted by Supreme Decree No. 040-2014-PCM of 11 June 2014 – and the Judiciary Career Act (No. 30483 of 27 May 2016)), and on the special measures adopted for women, particularly Act No. 30367 of 24 November 2015, which protects working mothers against unjustified dismissal (by providing that any dismissal on the basis of pregnancy, childbirth and

its aftermath, or breastfeeding, which occurs during pregnancy or within a postnatal period of 90 days, shall be declared null and void) and extends the period of maternity leave from 90 to 98 days.

With regard to access to employment for indigenous men and women, the Committee notes the Government's indication that the National Civil Service Authority (SERVIR) adopted a "Plan of action for the cross-cutting intercultural implementation of priority processes 2016–19" and has been preparing a study of indigenous persons' level and type of access to the civil service, in particular at the local government (municipality) level. The Committee notes that SERVIR, according to information on its website, published a study in 2016 on "local government employees who speak indigenous or original languages", which concluded that "there was no significant presence of such persons working in the local government departments covered by the study", with a quoted figure of 4.8 per cent, of which 72 per cent were men and 28 per cent were women. The Committee also notes the Government's reference to the formulation of a sectoral strategy for equality and non-discrimination in employment and occupation for the 2017–21 period, the goal of which is to ensure that women and groups entitled to special protection – including indigenous persons – enjoy equal conditions for exercising in practice their rights to find, keep and leave employment and to develop their productive potential. In this regard, the Committee notes Ministerial Decision No. 061-2018-TR of 23 February 2018, adopting the "Sectoral plan for equality and non-discrimination in employment and occupation 2018–21". As regards the measures taken to apply the legislation prohibiting discrimination in job vacancies, the Government states that the Ministry of Labour and Employment Promotion (Ministry of Labour) adopted the "Guide of good practice for equality and non-discrimination in access to employment and occupation", through Ministerial Decision No. 159-2013-TR of 10 September 2013. **While noting this information, the Committee asks the Government to continue to provide information on the transition to the single system of labour regulations for the civil service and on the promotion of equality of opportunity and treatment for men and women workers, without discrimination on the basis of sex, colour or race, regarding access to employment and vocational training, and conditions of employment.**

The Committee recalls that excluding certain categories or sectors from the scope of general labour law may adversely affect primarily workers of a particular sex or ethnic origin, and could constitute indirect discrimination in the context of the Convention (see 2012 General Survey on the fundamental Conventions, paragraph 739). **The Committee once again asks the Government to evaluate the impact of Acts Nos 28015, 27360 and 27986 on access to employment and conditions of employment for women and for indigenous workers, and to provide information in this regard. The Committee also asks the Government to supply detailed information on the specific measures adopted as part of the "Sectoral plan for equality and non-discrimination in employment and occupation 2018–21" to combat discrimination and promote equality of opportunity and treatment in employment and occupation, and the impact of those measures.**

Equality of opportunity and treatment for men and women. In its previous observation, the Committee asked the Government to take the necessary steps to ensure that the implementation of the "National gender equality plan 2012–17" effectively addresses existing problems of discrimination and promotes gender equality in terms of entering and remaining in the labour market. In particular, the Committee asked the Government to take specific measures to ensure that pregnant women can have access to and remain in employment, training and education, and to provide information in this regard. The Committee notes that the Government has provided information on: (i) the setting up of a bipartite working group by the Ministry of Labour and the General Confederation of Workers of Peru (CGTP) to address the main difficulties and challenges faced by women in the world of work and to propose action to foster and promote the rights of working women; (ii) the preparation of a study entitled "Focusing on gender equality and shared responsibility for care provision: Proposals for expanding care coverage for children under 5 years of age in Peru 2016–26"; (iii) the publication of the "Work–life balance: A guide to good practice"; and (iv) the above-mentioned special measures adopted for women. The Committee also notes the "Gender gap 2017" report of the National Institute of Statistics and Information Technology (INEI), which indicates that, despite the greater participation of women in the labour force in the last few decades, they still do not have equal employment opportunities and are frequently concentrated in "feminine" occupations, which are more precarious and informal. Moreover, the Committee notes that, according to the "Women in the Peruvian civil service" report produced by SERVIR and available on its website, women account for 47 per cent of public service staff and are concentrated in special career categories (55 per cent), due to the strong presence of nurses in the health sector and of pre-school and primary school teachers in the education sector. The above-mentioned report also contains the preliminary findings on the possible causes of unequal access to managerial posts; these identify prejudice against women, lack of experience and specialist qualifications for the posts concerned, and unwillingness to work long days, as among the leading factors. The Committee also notes the "National human rights plan 2018–21", adopted by Supreme Decree No. 002-2018-JUS of 31 January 2018, whose strategic objectives include ensuring a country free of discrimination and violence, and ensuring that women can generate their own income. In this regard, the Committee notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations, expressed concern at the major constraints faced by rural women, including the absence of a gender-sensitive rural development policy (CEDAW/C/PER/CO/7-8, 24 July 2014, paragraph 37). With regard to the issues of shared responsibility for care provision, occupational segregation and equal remuneration, the Committee also refers to its comments on the application of the Equal Remuneration Convention, 1951 (No. 100), and the Workers with Family Responsibilities Convention, 1981 (No. 156). **The Committee asks the Government to provide information on the specific measures taken by the bipartite working group of the Ministry of Labour and the CGTP and on the steps adopted as part of the "National human rights plan 2018–21" and the "Sectoral plan for equality and non-**

discrimination in employment and occupation 2018–21” to promote equality of opportunity and treatment for men and women, including measures designed to ensure that pregnant women have access to employment, training and education and can remain in them, and those designed to ensure that rural women have access to the necessary material goods and services for pursuing an occupation on an equal footing with men. The Committee once again encourages the Government to continue a systematic evaluation of the equality plans and programmes that have been adopted and asks it to provide information on their impact.

The Committee is raising other matters in a request addressed directly to the Government.

Qatar

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1976)

The Committee recalls that at its 324th Session (June 2015), the Governing Body adopted the recommendations of its tripartite committee set up to examine a representation alleging non-observance by Qatar of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), made under article 24 of the ILO Constitution by the International Trade Union Confederation (ITUC) and the International Transport Workers’ Federation (ITF). The representation concerned complaints of direct and indirect discrimination against women employed by the state-owned airline (GB.324/INS/7/9). In so doing, the Governing Body entrusted the Committee of Experts with following up the matters raised in the representation. These are examined below.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee also recalls the conclusions and the ensuing discussion that took place in the Committee on the Application of Standards (CAS) of the International Labour Conference in June 2016 in relation to the application of the Convention regarding: (i) compliance with the conclusions of the Governing Body; (ii) measures to define and prohibit direct and indirect discrimination in law and in practice; (iii) protection of domestic workers against discrimination; (iv) promotion of women’s employment; (v) measures to address sexual harassment; and (vi) amendment of Law No. 21 of 2015 which regulates the entry and exit of expatriates and their residence. These issues will be examined under the relevant Articles of the Convention.

The Committee notes the observations of the ITUC, received on 31 August 2016, on the discussion and the recommendations made by the CAS regarding the situation of migrant workers with respect to change of employer and exit permits (*Kafala* system).

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

Welcoming the detailed information provided by the Government in its report, the Committee notes with *interest* the progress made in the implementation of the recommendations made by the Governing Body, in particular the following:

- (i) Discrimination on the grounds of pregnancy (paragraph 32 of the tripartite committee’s report) and provision of suitable alternative employment for pregnant employees who are temporarily unfit to fly (paragraph 35): the Committee notes from the Government’s report that the company no longer employs any cabin crew under the terms of the previous employment contract and that the new contract was amended to remove any clause allowing automatic termination of employment in the case of pregnancy and to add provisions on maternity as set out in the company policy. Finally, the Committee notes that the company stresses that it is committed to making effort to find suitable alternative employment for pregnant cabin crew which does not affect their health. The company also stresses that it provides pregnant women with an opportunity to work in ground services, such as training, staff welfare, housing management, standards and procedures and customers’ lounge divisions, during pregnancy. The Government states that, through its follow-up with the company, it has ascertained that as of December 2014 none of the airline’s crew members who had become pregnant left the company unless it was their wish to do so (between 1 January 2014 and 31 August 2017, there were 72 pregnancies among crew members: 26 crew members were transferred temporarily or permanently to ground services, 14 submitted their resignation after maternity leave, nine were still on maternity leave and 23 have returned to their work according to the flight schedule).
- (ii) Prohibition in the company code of practice for women employees to be dropped off or picked up from the company premises accompanied by a man other than their father, brother or husband (paragraph 36): the Committee notes that the Government states that the prohibition is compulsory for both women and men employees, it only applies to being dropped off or picked up from the company premises and does not apply to employees’ housing. The Government states that this matter was effectively, and almost permanently, addressed through issuing informal warnings reminding persons concerned of the need to respect local traditions. It adds that the company guarantees to employees of both sexes full freedom in their social life without any interference from the company and without any impact on the employment relationship and that they are entitled to receive guests freely at the accommodation provided by the company.

- (iii) Authorization by the company to get married (paragraph 40): the Committee notes that, according to the company, female cabin crew members are free to marry and change their social status in general, without having to obtain prior permission from the company, and can remain in service and change their status to obtain benefits for their spouse.
- (iv) Rules governing rest periods (paragraph 42): the Committee notes the Government's indication that the company asserts that the rules relating to the rest periods are applied without discrimination on the basis of sex and this matter will continue to be kept under close scrutiny.
- (v) Ensuring that the application of rules and policies does not create or contribute to an intimidating working environment (paragraph 46): the Committee notes that specific changes were made by the company in its housing policies, such as provision of family housing, the possibility to change accommodation every six months, possibility to receive guests, etc. The Committee also notes the Government's indication that the company is committed to improving the quality of life of cabin crew, including additional leave for most cabin crew.
- (vi) Effectiveness of enforcement mechanisms in case of discrimination (paragraph 48): the Committee welcomes the Government's actions to increase the number of female labour inspectors from 16 to 57 and their participation in the periodical inspection visits to the airline company, in particular those targeting the housing of female employees. The Committee further notes that a specialized course for labour inspectors was organized in cooperation with the ITF in September 2016 in order to develop their skills and strengthen their capacity through specialized inspection programmes in the field of aviation. The Committee further notes that the Ministry of Administrative Development, Labour and Social Affairs (MADLSA) has not received any complaints on discrimination.

Noting the positive developments detailed above, in response to the recommendations made by the Governing Body in 2015, the Committee asks the Government to continue to follow-up with the company the implementation of these recommendations, and to monitor its practices, in order to ensure that there is no discrimination against pregnant cabin crew members and that measures are taken to provide them with alternative suitable work during pregnancy. The Committee also asks the Government to continue to strengthen enforcement mechanisms, including their capacity to detect and address discriminatory practices. In this regard, the Committee requests the Government to provide information on any complaints of discrimination filed and the results thereof and also any identification of discriminatory practices by labour inspectors.

Legislative developments. The Committee notes with *interest* the adoption of the following laws since its last comments: Law No. 15 of 2017 which relates to domestic workers; Law No. 13 of 16 August 2017 which amends several provisions of Labour Law No. 14 of 2004 and Law No. 13 of 1990 which promulgates the Civil and Commercial Proceedings Law; and Law No. 13 of 2018 amending the provisions of Law No. 21 of 2015 which regulates the entry and exit of expatriates and their residence. The Committee also notes the adoption of Law No. 15 of 2016 issuing the Civil Human Resources Law which repeals the Human Resources Management Law No. 8 of 2009. Where appropriate, the Committee will examine the provisions of these laws under the relevant Articles of the Convention.

Article 1 of the Convention. Protection against discrimination. Legislation. The Committee recalls once again that the constitutional and legislative framework does not provide for a comprehensive legal framework defining and addressing discrimination based on at least all the grounds enumerated in *Article 1(1)(a)* of the Convention. In particular, it falls short of effectively prohibiting discrimination on the basis of political opinion, national extraction and social origin, and only provide protection against discrimination in certain aspects of employment. The Committee notes that the Government's report once again describes the legal framework established by articles 34 and 35 of the Constitution which state that "Citizens are equal in public rights and duties" and that "People are equal before the law. There shall be no discrimination against them because of sex, race, language, or religion." The Government further indicates that the Labour Law provides for equal opportunities and equal wages for men and women (section 93) and that there are provisions providing benefits specifically to working women: paid leave for women with a child with disabilities; paid delivery leave; breaks for breastfeeding; restrictions regarding their employment (hazardous and arduous work and hours of work); etc. The Committee recalls that constitutional provisions providing for equality of opportunity and treatment, although important, have generally not proven to be sufficient to address specific cases of discrimination in employment and occupation. A more detailed legislative framework is also required. The Committee reiterates its previous comments that given the persisting patterns of discrimination on the grounds set out in the Convention there is a need for comprehensive legislation containing explicit provisions defining and prohibiting direct and indirect discrimination on at least all of the grounds set out in the Convention, and in all aspects of employment and occupation, in order to ensure the full application of the Convention. The Committee has observed that a number of features of the legislation contribute to addressing discrimination and promoting equality, and it particularly welcomes legislation containing the following: coverage of all workers; provision of a clear definition of direct and indirect discrimination, as well as sexual harassment; the prohibition of discrimination at all stages of the employment process; the explicit assignment of supervisory responsibilities to competent national authorities; the establishment of accessible dispute resolution procedures; the establishment of dissuasive sanctions and appropriate remedies; the shifting or reversing of the burden of proof; the provision of protection from retaliation; affirmative action measures; and provision for the adoption and implementation of equality policies or plans at the workplace, as well as the collection of relevant data at different levels (see General Survey of 2012 on the fundamental Conventions, paragraphs 850–855). ***Recalling the absence of a clear and comprehensive legislative framework providing for protection against discrimination in employment and occupation through a clear definition of***

and prohibition on direct and indirect discrimination, the Committee once again strongly urges the Government to take the necessary steps to ensure that all workers without distinction whatsoever are protected in law and practice against discrimination with respect to at least all the grounds covered by the Convention, including political opinion, national extraction and social origin, and in all aspects of employment, including recruitment and terms and conditions of employment, both in the public and the private sectors.

Article 1(1)(a). Discrimination based on sex. Sexual harassment. The Committee recalls that, since 2006, it has been referring to the insufficiency of the legislative framework to ensure the prohibition and effective protection against sexual harassment in employment and occupation, in particular for female domestic workers who are particularly vulnerable to this kind of sex discrimination. It has therefore been asking the Government to take the necessary steps for the adoption of legal provisions expressly defining and prohibiting both quid pro quo and hostile environment sexual harassment against men and women workers in the public and private sectors and providing for effective mechanisms of redress, remedies and sanctions. The Committee notes the Government's indication that "sexual harassment is a very complex matter because the perpetrator commits it in full secrecy, taking all the necessary measures, means and precautions so as not to expose his criminal conduct". The Government once again refers in its report to the following legal provisions: sections 279 to 289 of the Penal Code which punishes "crimes of honour"; section 291 which provides for sanctions against any person who "offends a woman's modesty"; and section 38 of the Law on Criminal Procedures which specifies that legal enforcement officers are under an obligation to accept complaints of crimes committed including sexual harassment, and to refer them immediately to the Public Prosecutor. The Government also states that there is no need for the inclusion of a provision in the Labour Law because both the Penal Code and the Law on Criminal Procedures are a more effective deterrent. However, the Committee would like once again to emphasize that, in general, addressing sexual harassment through the criminal law only is not sufficient due to the sensitivity of the issue, the fear of reprisals (the fear of losing one's job), the complexity of the procedure and the higher standard of proof in criminal law. Furthermore, with respect to domestic migrant workers, the Committee observes that section 7(2) and (3) of Law No. 15 of 2017 concerning domestic workers provide respectively that the employer shall be responsible for "treat[ing] domestic workers well, in a manner which safeguard their dignity and well-being" and "avoid[ing] exposing a domestic worker's health or life to danger, or harm him/her physically or morally in any manner whatsoever". The Committee would like to point out that the provisions of Law No. 15 are limited to the behaviour of the employer and not any other possible perpetrator and the provisions of both the Penal Code and Law No. 15 of 2017 do not capture the full range of behaviours that constitute sexual harassment in the specific field of employment and occupation which can manifest itself verbally, physically, visually, psychologically or electronically. In its 2002 general observation, the Committee defined sexual harassment as containing the following elements: (i) quid pro quo (any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men which is unwelcome, unreasonable and offensive to the recipient; and a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job); or (ii) hostile work environment (conduct that creates an intimidating, hostile or humiliating working environment for the recipient) (see 2012 General Survey, paragraph 789). **The Committee therefore urges the Government to take the necessary steps to explicitly define and prohibit, in the Labour Law No. 14 of 2004, Law No. 5 of 2017 concerning domestic workers and Law No. 15 of 2016 Issuing the Civil Human Resources Law, all forms of sexual harassment in employment and occupation committed not only by the employer but also by a co-worker, a customer or a supplier (or a member of the employer's family or a friend of the employer in the case of domestic workers), against all men and women workers both in the public and private sectors. The Government is also asked to include specific provisions providing for effective mechanisms of redress, remedies and sanctions. The Committee further asks the Government to consider the development and implementation of a range of practical measures to address sexual harassment, such as help lines, awareness-raising campaigns, legal assistance or support units to assist victims of sexual harassment and specific training for labour inspectors. Finally, the Committee asks the Government to continue to provide information on the number of complaints of sexual harassment referred to the competent authorities, including criminal cases.**

Articles 1 and 2. Non-discrimination of migrant workers. The Committee recalls that the vast majority of economically active workers in Qatar are migrant workers. The Committee also recalls that it has been referring since 2009 to the existing limitations on the possibility of migrant workers changing employers under the sponsorship system (*Kafala*), as a result of which migrant workers face increased vulnerability to abuse and discrimination, including on the basis of the grounds enumerated in the Convention such as race, colour, religion, national extraction and sex. In this respect, the Committee welcomes the fact that the replacement of the *Kafala* system by "an employment contractual system" is one of the five pillars of the Technical Cooperation Programme agreed between the Government of Qatar and the ILO, which was formally launched in November 2017 (see GB.334/INS/8, 24 October 2018, paragraphs 4, 13–15).

The Committee notes that, in its observations, the ITUC emphasizes that Law No. 21 of 2015 which regulates the entry and exit of expatriates and their residence falls short of addressing the issues raised by the Conference Committee of the Application of Standards regarding the abolition of exit permits. In this respect, the Committee notes with *interest* that, further to the adoption of Law No. 13 of 4 September 2018 amending the provisions of Law No. 21 of 2015 (entered into force on 13 December 2016), migrant workers covered by the Labour Law will be able to leave the country temporarily or depart permanently from the country during the period of the labour contract without having to obtain an exit visa. The law specifies that employers may submit for approval to the MADLSA a list of workers for whom an exit visa is still

required, with a justification based on the nature of their work. The number of these workers per company shall not exceed 5 per cent of their workforce (new section 7). The Committee notes, however, that the above provisions do not apply to migrant domestic workers – as they are not covered by the Labour Law – and points out that the provisions restricting the change of employer remain unchanged, that is, only: (i) with the approval of the employer, the competent authority and the MADLSA before the end of the contract; (ii) with the approval of the competent authority and the MADLSA after the end of the limited duration contract or after five years of work with the employer for an indefinite duration contract (section 21); and (iii) upon acceptance by the Minister or the Minister's representative if there is evidence of abuse by the employer or in the public interest or on a temporary basis if there are pending lawsuits between the worker and the employer (section 22). In this respect, the Committee notes that the ITUC points out that: (i) under section 21 of Law No. 21 of 2015, it is still not possible to change employer during a contract without the permission from the employer; (ii) under section 22, it is unclear on what basis the Ministry can refuse the transfer to another employer, and how “abuse” is established and also when a transfer is “in the public interest”. The ITUC concludes that the employer and the Government continue to maintain significant control over the worker and have broad discretion to determine whether he or she may change jobs. In addition, the ITUC observes that there are no specified conditions regarding the temporary transfer to another employer (up to one year) that may be authorized under section 23, with respect to the content of the new job and terms and conditions of employment. According to the ITUC, the ban of four years on re-entry of migrant workers, after dismissal on disciplinary grounds – with the decision being challenged – (section 26), appears quite severe especially as they face substantial barriers to accessing the justice system, as bringing a claim to a competent court is difficult in practice.

The Committee notes the Government's indication that the MADLSA provides legal assistance and support to workers who are subject to abuse, including discrimination, in asserting his/her rights under the Labour Law and assistance to change employer immediately if he/she so wishes. The Committee also notes from the Government's report that the MADLSA continues to implement awareness-raising campaigns on the rights of migrant workers, through newspapers, television and through social networks. It further notes that employment contracts must be approved by the Ministry and that an electronic contract system is operational online in ten languages to enable migrant workers to read the contract in his/her own language. In addition, the Committee notes from the information provided by the Government to the Governing Body that measures have been taken to improve migrant workers' access to justice and to address violence and to develop cooperation partnerships at the regional level to strengthen the rights of migrant workers, in particular with the assistance of the National Committee for Human Rights (see GB.331/INS/13(Rev.), 31 October 2017, Appendix I, paragraph 17). The Committee also notes that, as of October 2017, 12 workshops have been held to inform both migrant workers and employers of their respective rights and obligations as specified in the law (see GB.331/INS/13(Rev.), Appendix I, paragraph 9). ***While noting the significant steps taken by the Government by the removal of exit visas for migrant workers covered by the Labour Law, the Committee once again asks the Government to remove the restrictions and obstacles that prevent them from changing jobs, with reasonable notice; to re-examine Law No. 21 of 2015 in light of the above comments; and to clarify and provide a clear legal framework for the conditions of transfer to another employer, including on a temporary basis, with the assistance of the ILO Technical Cooperation Programme. In the meantime, the Committee asks the Government to provide support to migrant workers, especially domestic workers, seeking to change employer when subject to discrimination on the grounds enumerated in the Convention. The Government is also asked to continue to provide information on the application of Law No. 21 of 2015 in practice (number of applications to change employer and their outcomes).***

Protection of domestic migrant workers against discrimination. Legislative developments and practical measures. Recalling that domestic workers are excluded from the scope of the Labour Law No. 4 of 2004, the Committee notes with **interest** the adoption of Law No. 15 of 22 August 2017 concerning domestic workers, which is a significant step in providing protection for domestic workers, including with respect to rights and duties of both parties, as regards working hours, rest periods, payment of wages, etc. The Committee notes that the law does not define or prohibit discrimination against domestic workers on the basis of the grounds enumerated by the Convention (i.e. race, colour, sex, religion, political opinion, national extraction or social origin). The Committee notes that section 17 of Law No. 15 of 2017 allows a worker to terminate employment without loss of bonus where there is a “serious danger which threatens safety or health, provided that an employer was cognizant of the danger, and had not sought to remove it”. The Committee considers that these provisions as well as the provisions of section 7(2) and (3) mentioned above may have been designed to address the issues of violence and harassment, including sexual harassment. However, it observes again that they remain too general and do not explicitly define nor cover the full range of behaviours that constitute harassment, including sexual harassment, in employment and occupation. Moreover, they do not provide for an appropriate procedure for bringing an end to such conduct, beyond the possibility of a worker terminating his/her contract, or for investigating complaints of such behaviour, or remedies. The Committee welcomes nonetheless the opportunity for domestic workers and their employers to refer disputes relating to Law No. 15 of 2017 or the employment contract to the dispute settlement mechanism newly established in Chapter 11bis of the Labour Law, as amended by Law No. 13 of 16 August 2017, in accordance with section 18 of Law No. 15 of 2017. The Committee notes, however, that there is no provision in Law No. 15 of 2017 allowing for domestic workers to change employer and recalls that this possibility is regulated by sections 21 to 23 of Law No. 21 of 2015 which apply to migrant workers, except for domestic workers. The Committee also recalls that the removal of the exit visa requirement by Law No. 13 of 2018 amending Law No. 21 of 2015 does not apply to domestic workers

and that the rules and procedures regulating their exit from the country shall be determined by a ministerial decision (new section 7 of Law No. 21). The Committee observes from the statistical information provided by the Government to the Governing Body in October 2018 regarding the “crimes committed against female domestic workers” for 2015–16 (inter alia, 72 “physical or verbal aggressions”, nine rapes, 20 cases of sexual harassment, six cases of “sexual exploitation of the female worker”) that there might be an under-reporting of such crimes.

In light of the above, the Committee asks the Government to take the necessary steps to amend Law No. 15 of 2017 to include provisions defining and prohibiting: (i) discrimination based on at least all the grounds set out in the Convention and in all aspects of employment, including remuneration; and (ii) all forms of harassment, in particular both quid pro quo and hostile environment sexual harassment. It also asks the Government to ensure that dispute settlement mechanisms are accessible to and known by, domestic workers, and to continue to take steps, such as awareness-raising campaigns through the media or otherwise, to promote domestic workers rights and combat stereotypical views regarding domestic workers and the undervaluing of their work. The Committee further asks the Government to provide information regarding the possibility of domestic workers changing employers in practice. The Committee urges the Government to remove the requirement for exit visas on an equal footing with workers covered by the Labour Law.

Article 2. Equality between men and women in employment and occupation. The Committee notes from the Government’s report that “it has developed its strategic plans in pursuit of an optimal investment in the capacities of men and women and that, in spite of the cultural and social traditions which make this task difficult”, there has been progress in women’s engagement in education, training and the labour market. The Government adds that there is an evolution towards an increased female participation in the labour market (58.7 per cent in 2015). The proportion of working women out of all working-age women increased from 34.6 per cent in 2012 to 36.1 per cent in 2015, and the number of trained women increased from 29,000 in 2012 to 69,000 in 2015, including in the fields of management, information technology, oil and gas, mining, security, safety and handicrafts. The Government indicates, however, that women’s participation in the labour market is concentrated in fields, such as education, engineering and medicine. The Committee recalls that one of the goals of the Qatar National Vision 2030 is to increase and diversify participation of Qataris in the workforce through increased opportunities and vocational support for Qatari women and that this national strategy affirms that “women will assume a significant role in all spheres of life, especially through participating in economic and political decision-making”. *While welcoming the emphasis put on education and training of women in the Qatar National Vision 2030, the Committee asks the Government to adopt proactive measures, and remove obstacles, with a view to facilitating and increasing the participation of women – Qatari and non-Qatari – in employment and occupation, in particular measures aimed at:*

- (i) promoting equal opportunities for men and women in employment and occupation, including through the promotion of neutral recruitment processes and the removal of obstacles to access to productive resources and equipment; and*
- (ii) combating stereotypical views regarding women’s aspirations and capabilities, their suitability for certain jobs or their interest or availability for full-time jobs.*

In order to design appropriate measures, the Committee invites the Government to consider undertaking an assessment and analysis of the gender situation in respect of employment under its direct control and to encourage such an assessment and analysis in the private sector. The Government is also asked to continue providing up-to-date statistics, disaggregated by sex, concerning the participation of men and women in the various sectors of economic activity, in both the private and the public sectors, as well as statistics on the participation of both Qatari and non-Qatari women in education and vocational training.

Enforcement and awareness-raising. The Committee welcomes the detailed information provided by the Government in its report on the activities carried out by the labour inspectors. The Committee also notes that one of the five pillars of the Technical Cooperation Programme with the ILO concerns labour inspection and welcomes the signature of a protocol between the MADLSA and the ILO, aimed at providing assistance to workers wishing to submit complaints and the organization (in October 2018) by the MADLSA and the ILO of a workshop for labour inspectors and other government officials on equality and non-discrimination in employment and occupation, including a session devoted to the presentation of the requirements of the Convention (see GB.334/INS/8, 24 October 2018, paragraph 21). *Emphasizing the important role of labour inspectors in combating discrimination, the Committee asks the Government to continue to reinforce the capacities of labour inspectors and other enforcement authorities to prevent, identify and address cases of discrimination and put an end to discriminatory practices in employment and occupation, and to organize awareness-raising campaigns, through the media or otherwise, on discrimination and equality. The Government is asked to continue to provide information on the number and nature of the violations detected by the labour inspectors and complaints examined by courts relating to discrimination in employment and occupation and on any obstacles faced by workers in submitting complaints.*

The Committee is raising other matters in a request addressed directly to the Government.

Romania

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) **(ratification: 1973)**

Articles 1 and 2 of the Convention. Discrimination based on religion. Access to education, training and employment. The Committee notes, from the European Commission's website, that a draft bill to amend the Romanian Education Law was filed on 2 December 2017 and received a positive advisory opinion from the Economic and Social Council on 9 January 2018. The bill proposes the following additions to section 7 of the Education Law: "for the purpose of facilitating the identification of persons in educational units, institutions and all spaces used for education and professional training, it is prohibited to cover one's face with any material which make it difficult to recognize the face, except for medical reasons. Infringement of these provisions constitutes a reason to deny access to the perimeter of the educational units, institutions and spaces for education and professional training." The sanction, introduced as an amendment to section 360(1) of the Education Law would be a fine ranging from 5,000 to 50,000 Romanian Leu (RON) (approximately €1,100 to €11,000). The Committee notes that, if adopted, this new provision will be discriminatory towards those Muslim women and girls who wear a full face veil in terms of their access to educational or training institutions and might therefore limit their opportunities to find and exercise employment in the future – for reasons associated with their religious convictions, contrary to the Convention. ***Noting that this provision of the draft bill may have a discriminatory effect towards Muslim women who wear a full-face veil in terms of their possibilities of finding and exercising employment, the Committee requests the Government to provide information on: how it is ensured that this provision of the draft bill will not have the effect of reducing the opportunities of girls and women to access education and finding employment in the future; (ii) the progress of the draft bill in the legislative process; and (iii) to supply information on the number of girls and women who might be affected by the implementation of this new provision.***

Articles 1(2) and 4. Discrimination based on political opinion. Inherent requirements of the job. Activities prejudicial to the security of the State. For a number of years, the Committee has been drawing the Government's attention to the fact that the restriction set by section 54(j) of Act No. 188/1999, which provides that "to hold public office a person shall meet the following conditions: ... (j) shall not have been carrying out an activity in the political police as defined by the law", could amount to discrimination on the basis of political opinion because it applies broadly to the entire public service rather than to specific jobs, functions or tasks. In its previous report, the Government had explained that, in order to clarify the legal norm and remove any possible inconsistency with the Convention, it had proposed an amendment to the current text of section 54(j) of Act No. 188/1999 as follows: "... was not a worker of the Securitate or a collaborator thereof, as provided by specific legislation". According to the Government, "specific legislation" refers to section 2 of Ordinance No. 24/2008 which defines an "employee of Securitate" and a "collaborator of Securitate". While understanding the Government's concerns regarding the requirement for all government unit members to be loyal to the State, the Committee had drawn attention to the fact that, for such measures not to be deemed discriminatory under *Article 4* of the Convention relating to activities prejudicial to the security of the State, they must affect an individual on account of activities he or she is justifiably suspected or proven to have undertaken. These measures become discriminatory when taken simply by reason of membership to a particular group or community. They must refer to activities that are objectively prejudicial to the security of the State and the individual concerned must have the right to appeal to a competent body in accordance with national practice (see 2012 General Survey on the fundamental Conventions, paragraphs 832–835). The Committee therefore requested the Government to specify and define the functions in respect of which section 54(j) of Act No. 188/1999 would apply and to provide information on its application in practice. The Committee notes that the Government's report does not contain any information in this regard. It notes, however, that the European Court of Human Rights (ECHR) (*Naidin v. Romania*, No. 38162/07) held that the barring of a former collaborator of the political police from public service employment was justified by the loyalty expected from all civil servants towards the democratic regime. In this regard, the Committee recalls that, under *Article 1(2)*, political opinion may be taken into account as an inherent requirement of a particular position *involving special responsibilities* in relation to developing government policy, which is not the case of section 54(j) given that it applies to *any* state civil service position, whatever the level of responsibility. Further, the Committee recalls that the principle of proportionality must apply and that the exception under *Article 4* should be interpreted strictly. ***The Committee urges the Government to take the necessary steps to amend section 54(j) of Act No. 188/1999 or to adopt other measures clearly stipulating and defining the functions to which this section applies. It also asks the Government to provide information on the application of section 54(j) of Act No. 188/1999 in practice, including information on the number of persons dismissed or whose application has been rejected pursuant to this section, the reasons for these decisions and the functions concerned, as well as information on the appeal procedure available to the affected persons and any appeals lodged and their results.***

The Committee is raising other matters in a request addressed directly to the Government.

Russian Federation

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)

The Committee notes the observations of the Confederation of Labour of Russia (KTR) received on 31 October 2017.

Article 1 of the Convention. Definition of discrimination. Legislation. In its previous comments, the Committee had noted that Federal Law No. 162-FZ amended section 3 of the Labour Code (prohibition of discrimination on the basis of listed grounds) so as to remove the adjective “political” before the word “convictions” (beliefs), and added “membership of other social groups”, and it therefore requested the Government to clarify whether the general term “convictions” also covers “political opinion” referred to in *Article 1(1)(a)* of the Convention. The Committee notes that the Government is silent on this point. Further, it notes that section 3 of the Labour Code only prohibits direct discrimination whereas sections 64 and 132 prohibit direct or indirect discrimination with regard to the conclusion of labour agreements and wage fixing respectively. In this regard, the Committee recalls that the concept of *indirect* discrimination is imperative to identify and address discriminatory situations in which certain treatment is extended equally to everybody, but leads to discriminatory results for one particular group protected by the Convention. Such discrimination is subtle and less visible, making it even more important to ensure there is a clear framework for addressing it, and proactive measures are required to eliminate it. Further, the Committee stresses that intention to discriminate is not an element of the definition in the Convention, which covers all discrimination irrespective of the intention of the author of a discriminatory act (see 2012 General Survey on the fundamental Conventions, paragraphs 744–747). ***Noting that, in the absence of information on the impact of the amendments to section 3 of the Labour Code, it remains unclear if the term “conviction” covers “political opinion”, the Committee once again requests the Government to clarify whether the general term “convictions” (beliefs) also covers “political opinion” as referred to in Article 1(1)(a) of the Convention. In addition, it asks the Government to provide specific information on any measures taken to ensure protection against both direct and indirect discrimination. In the event that no information is available on relevant judicial decisions, the Committee asks the Government to consider amending the legislation to provide for an explicit prohibition of indirect discrimination and to include provisions aimed at eliminating such discrimination. Further, the Committee requests the Government once again to provide information on access to effective remedies, and to strengthen or establish mechanisms for the promotion, analysis and monitoring of equality of opportunity and treatment in employment and occupation for all the groups covered by the Convention.***

Article 1(1)(a) Discrimination based on sex. Sexual harassment. The Committee recalls its previous comments in which it noted that section 133 of the Criminal Code on “compulsion to perform sexual actions” does not cover the full range of behaviour that constitutes sexual harassment in employment and occupation, in particular the creation of a hostile working environment. Noting that, once again, the Government’s report is silent on this point, the Committee recalls that criminal law in itself is not sufficient to effectively address sexual harassment in employment and occupation. As the Committee emphasized in paragraph 792 of its 2012 General Survey on the fundamental Conventions, addressing sexual harassment only through criminal proceedings is normally not sufficient, due to the sensitivity of the issue, the higher burden of proof, which is harder to meet, especially if there are no witnesses, and the fact that criminal law generally focuses on sexual assault or “immoral acts”, and not the full range of behaviour that constitutes sexual harassment in employment and occupation. The Committee also considers that legislation under which the sole redress available to victims of sexual harassment is the possibility to resign, while retaining the right to compensation, does not afford sufficient protection for victims of sexual harassment, since it in fact punishes them and could dissuade victims from seeking redress. The Committee further recalls its 2002 general observation in which it stressed the importance of taking effective measures to prevent and prohibit both *quid pro quo* sexual harassment (any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men which is unwelcome, unreasonable and offensive to the recipient; and a person’s rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person) and hostile work environment sexual harassment (conduct that creates an intimidating, hostile or humiliating working environment for the recipient). ***Therefore, recalling that sexual harassment undermines equality in employment and occupation by calling into question the integrity, dignity and well-being of workers and, in order to ensure an effective protection of workers against sexual harassment, the Committee once again requests the Government to take steps to include in the civil or labour law a clear definition and prohibition of both quid pro quo and hostile environment sexual harassment in employment and occupation. It also once again requests the Government to take active steps to prevent and address sexual harassment in employment and occupation in practice, and to raise awareness of employers, workers and their organizations of this issue. The Committee asks the Government to communicate information on the progress made in this respect.***

Prohibition of discrimination in job advertising. The Committee recalls that Federal Law No. 162-FZ of 2 July 2013 amending Federal Law No. 1032-I on employment and other legislative acts, modified section 25 so as to explicitly prohibit the dissemination of advertisement of vacancies containing restrictions or establishing preferences on the basis of sex, race, colour, nationality, language, origin, property, family, social and employment status, age, place of residence, attitude to religion, convictions, membership or non-membership of voluntary associations or social groups, as well as any

other factors not related to the qualifications of workers, except for cases where these restrictions or preferences are established under specific laws. The Code of Administrative Offences was also amended accordingly to introduce a definition of discrimination and to provide for fines in case of discrimination in job advertising. The Committee notes the KTR's observations in which it alleges that despite the adoption of Federal Law No. 162-FZ of 2 July 2013, some job adverts containing discriminatory grounds of selection continue to be published, and that in practice, many employers and recruitment agencies who have stopped publishing discriminatory job adverts, still apply discriminatory criteria at the recruitment stage. ***Noting that the Government has not provided information nor commented on this point, the Committee requests the Government to provide its reply to the KTR's observations. In addition, the Committee reiterates its request to the Government that it specify the legal provisions referred to in section 25 of the Law on Employment, as amended, and provide relevant administrative or judicial decisions so as to clarify the cases in which the prohibition of discrimination in recruitment does not apply, and the related grounds.***

Articles 1 and 5. Discrimination based on sex. Special measures of protection. Since 2002, the Committee has been requesting the Government to revise section 253 of the Labour Code (prohibition to employ women in arduous, harmful or dangerous conditions) and Resolution No. 162 of 25 February 2000, which excludes women from being employed in 456 occupations and 38 branches of industry. It recalls that the Labour Code (sections 99, 113, 259, 298, etc.) contains specific provisions with respect to women who have children under the age of 3 years (or 1.5 years), particularly with respect to working time (overtime, night work, work in shifts, etc.). The Government indicated in 2014 that it had decided to amend Resolution No. 162 and that work was under way to introduce a general system of occupational risk management in cooperation with the social partners at each workplace. The Committee notes the KTR's observations according to which in 2017, following the recommendation of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), the Supreme Court held that the case of a woman who had been refused work as a navigation officer should be re-examined at the district level. The KTR observes, however, that the issue remains unsolved as the list of prohibited occupations and industries is still in force. The Committee notes the Government's indication that it will consider the possibility of amending section 298 of the Labour Code, to allow women with children under the age of 3 years to work on rotating shifts, subject to their written consent. However, the Committee notes with **concern** that the Government repeats its previous statement that it does not consider that the other above-mentioned provisions amount to discrimination, as they merely reflect the State's particular concern for persons in need of greater social and legal protection. Finally, the Committee notes from the 2017 concluding observations of the United Nations Committee on Economic, Social and Cultural Rights (CESCR) that there is an ongoing discussion to review the list contained in Resolution No. 162 of 25 February 2000 (E/C.12/RUS/CO/6, 16 October 2017, paragraph 28). In this regard, the Committee recalls that a major shift over time has occurred from a purely protective approach concerning the employment of women to one based on promoting genuine equality between men and women and eliminating discriminatory law and practice. The Committee recalls that in its 2012 General Survey (paragraphs 838–840), it stresses the distinction to be drawn between special measures to protect maternity (in the strict sense), which come within the scope of *Article 5* of the Convention, and measures based on stereotypical perceptions of women's capabilities and their role in society, which are contrary to the principle of equality of opportunity and treatment. Provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work, while taking account of gender differences with regard to specific risks to their health. Moreover, with a view to repealing discriminatory protective measures applicable to women's employment, it may be necessary to examine what other measures, such as improved health protection of both men and women, adequate transportation and security, as well as social services, are necessary to ensure that women can access these types of employment on an equal footing with men. ***Consequently, the Committee urges the Government to take immediate measures to revise Resolution No. 162 and the Labour Code, in particular section 253, so as to ensure that restrictions applying to women are strictly limited to those aimed at protecting maternity, in the strict sense, and those providing special conditions for pregnant women and breastfeeding mothers, and that they do not hinder the access of women to employment and their remuneration on the basis of gender stereotypes. The Committee requests the Government to provide full information on any progress achieved in this regard, in consultation with workers' and employers' organizations.***

Monitoring and enforcement. The Committee previously welcomed the increased efforts made by the labour inspectorate to strengthen the supervision and monitoring of compliance with the labour legislation relating to the protection of women (pregnant women, women with young children and women in rural areas) and persons with family responsibilities. However, recalling that claims for discrimination are only dealt with by the courts, and not by the labour inspectorate, it also noted the insufficient information regarding complaints for or relating to discrimination in employment and occupation submitted to the courts. It therefore requested the Government to provide information on the number and content of cases concerning discrimination.

The Committee notes the KTR's allegations according to which the prohibition of discrimination contained in the legislation is ineffective because the labour inspectorate does not have the right to take any action against the employer and that filing a claim with the court does not lead to the effective protection and restoration of a worker's rights. The Committee takes note of the Government's indication that the labour inspectorate provides counsel and assistance to workers applying to the courts for discrimination issues. It also welcomes the adoption of Federal Law No. 272-FZ amending certain legislative acts of the Russian Federation in order to increase employers' liability for breaches of the

law. The Committee welcomes the Government's indication that Federal Law No. 272-FZ amended section 29 of the Civil Procedure Code to permit citizens to institute legal proceedings for the restoration of their labour rights in the court closest to the plaintiff's place of residence. However, the Committee notes with *regret* the continued lack of information provided by the Government with respect to the number and outcome of cases dealt with by the courts, making it difficult to assess whether the existing complaint mechanism is accessible in practice and allows workers to effectively assert their right to non-discrimination and equality under the Labour Code. The Committee recalls that where no cases or complaints, or very few, are being lodged, this is likely to indicate a lack of an appropriate legal framework, lack of awareness of rights, lack of confidence in or absence of practical access to procedures or fear of reprisals. The lack of complaints or cases could also indicate that the system of recording violations is insufficiently developed. The Committee further wishes to emphasize that the judicial process of individual complaints to courts, including providing appropriate remedies and imposing sanctions, remains a common feature in the enforcement of anti-discrimination and equal remuneration provisions. Courts have an important role in developing jurisprudence furthering the principle of the Convention, and in providing remedies including orders for compensation and reinstatement (see 2012 General Survey, paragraphs 870 and 883). ***The Committee therefore once again urges the Government to provide information on the number and content of cases concerning discrimination in all aspects of employment and occupation brought before the courts under the terms of the Labour Code, and on the outcome of such cases, as well as the impact of limiting the avenues for seeking redress solely to the courts. The Committee also requests the Government to take steps to strengthen or establish mechanisms to analyse and monitor equality of opportunity and treatment (or non-discrimination) for all groups covered by the Convention, and to provide information in this regard. The Government is further requested to provide information on any activity undertaken: (i) to raise awareness of the relevant non-discrimination legislation, to enhance the capacity of the competent authorities, including judges, labour inspectors and other public officials, to identify and address cases of discrimination; and (ii) to promote public understanding of the relevant legislation, such as through media campaigns or training delivered to social partners.***

The Committee is raising other matters in a request addressed directly to the Government.

Rwanda

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1980)

The Committee notes the observations of the Congress of Labour and Brotherhood of Rwanda (COTRAF-RWANDA) received on 24 June 2018. ***The Committee requests the Government to provide its comments in this respect.***

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments initially made in 2016.

Articles 1(b) and 2 of the Convention. Equal remuneration for work of equal value. Legislation. The Committee recalls that the definition of the expression "work of equal value" which appears in section 1.9 of Law regulating Labour No. 13/2009 of 27 May 2009 refers only to "similar work" and is therefore too narrow to fully implement the principle of the Convention. It also recalls that this law does not contain any substantial provisions prescribing equal remuneration for men and women for work of equal value and the Constitution only refers to "the right to equal wage for equal work". The Committee notes that the Government continues to repeat that, in practice, there is no discrimination between men and women with regard to remuneration, and that full legislative expression will be given to the principle of equal remuneration for men and women for work of equal value in the ongoing revision process of Law No. 13/2009. The Government also indicates that the revision will also address the linguistic differences between the Kinyarwanda and English versions of section 12. The Committee once again refers to paragraphs 672–679 of its General Survey of 2012 on the fundamental Conventions explaining the meaning of the concept of "work of equal value" which not only covers "equal", the "same" or "similar" work but also addresses situations where men and women perform different work that is nevertheless of equal value. ***Noting that no progress has been made in this respect for a number of years, the Committee urges the Government to take the necessary steps without delay to amend Law No. 13/2009 of 27 May 2009 regulating Labour, including sections 1.9 and 12, so as to give full legislative effect to the principle of equal remuneration for men and women for work of equal value.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Saint Lucia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1983)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Article 1(a) of the Convention. Definition of remuneration. The Committee recalls that the Equality of Opportunity and Treatment in Employment and Occupation Act, 2000, contains no definition of the term "remuneration". The Committee notes the adoption of the Labour Code (Amendment) Act No. 6 of 2011, which amends section 95 of the Labour Code of 2006 to include the definition of "total remuneration" as "all basic wages which the employee is paid or is entitled to be paid by his or her employer in respect of labour performed or services rendered by him or her for his or her employer during that period of employment". The Committee notes that section 2 of the Labour Code, continues to exclude overtime payments, commissions, service charges, lodging, holiday pay and other allowances from the definition of wages. The Committee recalls that the Convention sets out a very broad definition of "remuneration" in *Article 1(a)* which includes not only "the ordinary, basic or minimum wage or salary" but also "any additional emoluments whatsoever payable directly or indirectly, whether in cash or in

kind, by the employer to the worker and arising out of the worker's employment" (see 2012 General Survey on the fundamental Conventions, paragraph 686). *The Committee asks the Government to take the necessary measures to further amend section 95 of the Labour Code in order to ensure that at least for the purposes of the application of the principle of the Convention the concept of remuneration covers not only the basic wages, but also any additional benefit or allowance arising out of the worker's employment.*

Different wages and benefits for women and men. The Committee notes with regret that despite the Government's previous announcement in this respect, the Labour Code (Amendment) Act No. 6 of 2011 does not repeal the existing laws and regulations establishing differential wage rates for men and women, nor does it revoke the Contract of Service Act which provides for different ages for men and women with respect to entitlement to severance pay. *The Committee urges the Government to take measures without delay to ensure that all laws and regulations are repealed which contain differential wages for men and women, as well as the Contract of Service Act, which provides for different ages for men and women with respect to entitlement to severance pay. The Committee requests the Government to provide information on any development in this regard.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Saint Vincent and the Grenadines

Equal Remuneration Convention, 1951 (No. 100) (ratification: 2001)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 1 of the Convention. Work of equal value. The Committee notes with regret the Government's indication that there has been no progress regarding the matter of amending section 3(1) of the Equal Pay Act of 1994, which provides for "equal pay for equal work" and is therefore not in conformity with the principle of equal remuneration for men and women for work of equal value. *The Committee requests the Government once again to take steps to amend section 3(1) of the Equal Pay Act without further delay in order to ensure that the legislation provides for equal remuneration for men and women for work of equal value, as specified in the Convention; and to provide information on any progress achieved in this regard.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Senegal

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

Article 1 of the Convention. Legislation. Protection of workers against discrimination. In its previous comments, the Committee emphasized that the Constitution (article 25) and the Labour Code (sections L.1 and L.29) do not cover all the prohibited grounds of discrimination set out in the Convention, as they omit national extraction and colour, and they do not refer explicitly to social origin, and accordingly do not provide protection against discrimination at all stages of employment and occupation. It requested the Government to ensure that the Bill amending the Labour Code explicitly defines and prohibits direct and indirect discrimination on the basis of at least all the grounds listed in *Article 1(1)(a)* of the Convention and that all stages of employment and occupation are covered. The Committee notes the Government's indications in its report that the new Bill to amend the Labour Code clearly indicates that "discrimination is understood to mean any distinction, exclusion or preference based, among other grounds, on race, colour, age, sex, trade union activity, belonging to a religion, brotherhood or sect, political opinion, national extraction, ethnicity, social origin, disability, pregnancy, family situation, state of health, serological status, physical appearance, which has the effect of undermining or prejudicing equality of opportunity and treatment in employment and occupation. Discrimination is a practice which is prohibited in all its forms, both directly and indirectly". The Government adds that the stages of administration and consultation of the social partners have been completed and that it is now for the legislative authority to adopt the Bill. *While welcoming this information, the Committee expresses the firm hope that the Bill to amend the provisions of the Labour Code regarding discrimination will be adopted in the near future and requests the Government to continue providing information on the progress made in the legislative work in this regard.*

Articles 1(1)(a) and 2. Discrimination based on sex and equality of opportunity and treatment for men and women. The Committee notes that the Government reaffirms its will to continue its efforts to improve the situation of women in employment and occupation, but notes that the report does not contain information on this subject. The Committee notes that, according to the National Survey of Employment in Senegal (second quarter of 2017) undertaken by the National Statistical and Demographic Agency, 39.7 per cent of the employed population was engaged in salaried employment (however, whereas 46.6 per cent of the employed men were engaged in salaried employment, the ratio is only at 30.5 per cent for women), and that unemployment affected women (17.8 per cent) more than men (8.1 per cent). Recalling that, in view of the predominance of women in low-paid work and that a national system of uniform minimum wages contributes to increasing the income of the lowest paid workers, this has an impact on the relationship between the wages of men and those of women and on reducing the remuneration gap between men and women, the Committee welcomes the increase of 44.8 per cent in the minimum wage on 1 June 2018 following an agreement between the trade unions and employers. The

Committee further notes that a new National Strategy for Gender Equity and Equality (SNEEG) 2016–26 has been adopted. The SNEEG is targeted particularly at: improving the socio-cultural, political and economic environment through changes in perceptions of gender relations; ensuring the effective implementation of legislative provisions and regulations conducive to equality and equity through the revision and harmonization of the legislation with international conventions and the adoption of additional juridical measures to bring an end to discrimination; and ensuring the equitable access of men and women to economic conditions and opportunities, particularly through an improvement in the access of women to production factors and financial resources, the acquisition by women of technical and managerial capacities and the lightening of the domestic burden on women. The Committee notes that, at the institutional level, the General Secretariat established in ministries by Decree No. 2017-313 of 15 February 2017 includes the bodies and structures responsible for gender and equity and that, within the framework of the SNEEG, ministries are required to establish a “gender unit”. The Committee also notes that, in the report of the United Nations Working Group on the issue of discrimination against women in law and practice on its mission to Senegal (Supplement: comments by the State on the visit of the Working Group to Senegal from 7 to 17 April 2015), the Government states that a technical committee has been established to revise the legislative provisions and regulations which discriminate against women, under the authority of the Minister of Justice, and was established by Order No. 00936 of 27 January 2016 (A/HRC/32/44/Add.3, 13 June 2016, paragraphs 18–22). ***Welcoming all this information, which demonstrates a firm will to take action against discrimination against women and to promote genuine equality between men and women in employment and occupation, including with regard to access to and retention at school, the Committee requests the Government to provide information on the specific measures adopted for the implementation of the SNEEG and their outcome, particularly in relation to the development of vocational guidance and training for women in trades and fields traditionally reserved for men with a view to reducing occupational segregation, combating gender stereotypes and improving the access of women to land, credit and equipment. The Committee requests the Government to provide information on the recommendations made by the technical committee for the amendment of legislative provisions and regulations which discriminate against women, and on all the work on the legislation and regulations undertaken in this respect.***

Specialized body. The Committee notes that, according to the report of the Working Group referred to above, the Ministry of Labour has prepared a Bill to amend the Labour Code which establishes within the Ministry of Labour a National Observatory responsible for promoting and coordinating policies and programmes to combat discrimination at work and a preliminary text of a Decree issuing the rules on the organization and operation of the Observatory. The Committee notes the Government’s indication in its report that the preparation of the draft Decree has been finalized and that it was approved by the social partners in the National Labour Advisory Council. It notes that the text has not yet been adopted and that its adoption will have to follow that of the envisaged amendment to the Labour Code on this point. ***The Committee requests the Government to provide information on the adoption of the Bill to amend the Labour Code and establish the National Observatory responsible for promoting and coordinating policies and programmes to combat discrimination at work and the Decree establishing the rules for the organization and operation of the Observatory. The Government is requested to provide a copy of these texts.***

Slovakia

Workers with Family Responsibilities Convention, 1981 (No. 156) (ratification: 2002)

Practical application. Lack of statistical information. The Committee notes the Government’s repeated indication, in its report, that it is not in a position to provide the statistical information requested by the Committee as such information is not available. The Committee draws the Government’s attention to the importance of collecting and analysing sufficiently detailed statistical information in order to determine and assess the current situation of workers with family responsibilities, design appropriate responses, and monitor and evaluate the impact of the measures which are being implemented. ***Noting the Government’s indication that a new central statistics system is currently in development with a new methodology for statistics gathering, the Committee trusts that the Government will strengthen its efforts to collect comprehensive and sufficiently detailed data on the issues covered by the Convention. In the meantime, it requests the Government to provide all available information, including statistical data disaggregated by sex, any studies, surveys or reports that may enable the Committee to fully assess how the provisions of the Convention are applied in practice, and its evaluation of how progress is being made to address existing inequalities between men and women workers with family responsibilities and between these workers and workers without such responsibilities.***

Articles 4(a) and 7 of the Convention. Measures to promote free choice of employment and integration in the labour market. The Committee notes the Government’s repeated indication that several provisions of the Labour Code and Act No. 5/2004 Coll. on Employment Services are aimed at enabling workers with family responsibilities to exercise their right to free choice of employment and re-enter into the labour market after maternity or parental leave. It notes the Government’s indication that, as a result of the “Work and Family” project, new jobs will be created for which only persons with children below 6 years of age can be hired. The Government indicates that it will cover up to 90 per cent of real expenses to employers in such cases, and up to 50 per cent of real expenses to employers employing persons with children aged between 6 and 10 years of age. With regard to the number of men and women with family responsibilities

participating in the National Programme of Education and Preparation for the Labour Market, and the number of whom subsequently entered into the labour market, the Committee notes the Government's statement that this information is not available. The Committee however notes with **concern** that, in the framework of the National Employment Strategy until 2020, the Government acknowledged that the presence of children younger than 6 years of age in the family significantly reduces the employment rate of women (less than 40 per cent), while male employment increases (more than 83 per cent). It further notes that, in its concluding observations, the United Nations Committee of the Elimination of Discrimination against Women (CEDAW) expressed concern at the deeply rooted stereotypes regarding women and men in the family, with women continuing to bear a disproportionate share of family responsibilities, and at the lack of effective measures to promote the reconciliation of work and family life which constitutes a barrier to women's access to employment, in particular for mothers with young children (CEDAW/C/SVK/CO/5-6, 25 November 2015, paragraphs 18 and 28). ***Referring to its last comments on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), where it highlighted the unbalanced share of family responsibilities and childcare between men and women, the Committee requests the Government to intensify its efforts to overcome the persistent obstacles faced by workers with family responsibilities, and more particularly by mothers with young children, in exercising their right to free choice of employment and entering or re-entering into the labour market and participating in vocational training. It requests the Government to provide information on the concrete measures taken to this end, including in the framework of the "Work and Family" project, and the results achieved in this regard, while specifying the number of women and men with children below 6 years of age and with children between 6 and 10 years of age who have received employment or other benefits under these measures. The Committee once again requests the Government to provide a copy of any collective agreements containing specific provisions in favour of workers with family responsibilities.***

Article 6. Educational programmes. The Committee notes the Government's indication that, as a result of the "Work and Family" project, several media information campaigns were implemented to raise awareness about the objectives of the project. It also takes note of the annual nationwide competition "Family Friendly Employer" organized by the Government which aims to raise public awareness about good practices for better conciliating work and family life. The Government adds that at a more local level, measures are implemented by individual municipalities and self-governing regions to help employers introducing additional measures to support reconciliation of work and family life. While welcoming these initiatives, the Committee notes that, in its concluding observations, the CEDAW expressed concern at the vigorous campaigns by non-State actors, including religious and civic organizations, the media and politicians, advocating traditional family values, overemphasizing the roles of women as mothers and caretakers and criticizing gender equality as "gender ideology" (CEDAW/C/SVK/CO/5-6, paragraph 18). ***The Committee requests the Government to strengthen its efforts to take effective and proactive measures, such as public awareness-raising campaigns and education initiatives, to promote a more equitable sharing of family responsibilities between men and women, as well as a broader public understanding of various aspects of employment of workers with family responsibilities. It requests the Government to continue to provide information on any survey, studies or programmes undertaken to this end, as well as specific information on the impact of such initiatives and any follow-up measures implemented.***

The Committee is raising other matters in a request addressed directly to the Government.

Spain

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO), received on 11 August 2017, and of the General Union of Workers (UGT), received on 17 August 2017, both also transmitted by the Government, and the Government's responses. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2017, which support and endorse the observations of the Spanish Confederation of Employers' Organizations (CEOE), communicated by the Government, and the Government's corresponding response.

Articles 1 and 2 of the Convention. Gender wage gap. In its previous observation, the Committee requested the Government to take specific measures for the adoption of effective action to address the gender wage gap, and also to take measures in the area of education and vocational training to address the significant occupational segregation and to enable women to have greater access to non-traditional careers and positions of responsibility, and to provide information on this subject. The Committee notes that the Government's report contains information on the various measures adopted to promote the principle of the Convention in enterprises, including information on the implementation of the "Equality in the Enterprise" label, subsidies for the development and implementation of equality plans in enterprises, and the advisory services, awareness-raising training and citizens' information for the development of equality plans managed by the Women's Institute for Equality of Opportunities which, among other measures, makes available to enterprises self-diagnosis tools for the gender wage gap and for the assessment of jobs from a gender perspective. The Committee also notes the collaboration agreement between the Ministry of Employment and Social Security and the Ministry of Health, Social Services and Equality for permanent monitoring in enterprises of effective equality between men and women and the results of the campaigns on gender-based wage discrimination. With regard to vertical occupational segregation, the

Committee notes the extensive information provided by the Government on the various programmes undertaken in collaboration with enterprises with a view to promoting the access of women to decision-making positions, including the More Women, Better Enterprises (*Más Mujeres, Mejores Empresas*) programme, the Promotion Project, the Programme for the Development of Women Directors and the Women's Entrepreneurship and Leadership Development Project in decision-making bodies in enterprises in the agro-food sector. With regard to horizontal segregation, the Government indicates that, in recent years, significant progress has been made in equality in education and training, but that important objectives still need to be addressed, especially in the fields of sciences, technology, engineering and mathematics. With a view to eliminating the "scientific gap", the Government refers to the Digital Agenda for Spain 2013 and the Plan for Equality of Opportunities for Women and Men in the Information Society 2014–17, in the context of which awareness-raising and training campaigns have been undertaken to promote the capacities of women in information and communication technologies, together with action to promote and support women's entrepreneurship through these technologies.

On the other hand, the Committee notes the Annual Wage Structure Survey published in 2018, according to which: (i) the annual wage of women in 2016 represented 77.7 per cent of that of men; (ii) the economic activities with the best annual wages were found in electrical energy, gas, steam and air conditioning, financing and insurance, information and communications, while the lowest annual salaries were in catering and other services; and (iii) with regard to wages by occupation, the lowest paid occupations were occupied by unskilled workers in services (with the exception of transport), workers in the catering services and commerce, and workers in health and personal care services, where the average wages were all below the national average. In this regard, the Committee also notes the report "The situation of women on the labour market 2017", available on the website of the Ministry of Employment and Social Security, according to which almost 89 per cent of women in employment are engaged in the services sector.

The Committee notes that, according to the UGT, the measures adopted by the Government are ineffective and inadequate to achieve wage equality between men and women. The UGT indicates that it has communicated to the Government the need to develop and adopt legislation on gender wage equality in order to make progress. It adds that, in the current context of a more precarious labour market, enterprise equality plans are not effective in achieving wage equality between men and women workers, very few plans are negotiated in practice with workers' representatives and almost none of them contain measures to achieve wage equality. The Committee further notes the indication by the CCOO that the measures to which the Government refers, such as More Women, Better Enterprises, the Promotion Project, the Programme for the Development of Women Directors, are intended for women who are in managerial positions or on executive boards, and it is necessary to take measures which are also intended for women at lower wage levels. In this regard, the CCOO indicates that women represent 70 per cent of the employed population with incomes below the minimum wage (SMI). The Committee also notes the observations of the CEOE, which update the Government's report on various points, and particularly on the implementation of the Promotion Project.

The Committee notes the Government's reply to the observations made by the UGT and the CCOO, in which it: (i) indicates that the underlying causes of the gender wage gap are numerous and complex; (ii) indicates that the development of new measures is being examined to address wage inequality based on certain projects undertaken in 2014 and 2015 in collaboration with universities, trade unions and employers' organizations; (iii) recalls that enterprises with over 250 workers are required by law to negotiate and implement an equality plan and that enterprises which voluntarily implement equality plans have to ensure the participation of the legal representatives of the staff in their preparation and implementation; (iv) emphasizes that the conditions for the subsidies for equality plans referred to above provide that the plans to be financed shall promote specific measures in a series of areas, including access to employment and conditions of work, intended to combat horizontal and vertical gender segregation and achieve equal remuneration, and recalls the diagnostic tools for the wage gap and other instruments made available in enterprises; (v) reiterates that Spanish labour legislation already sets out and guarantees equality in employment, including in relation to remuneration, in full recognition of the principle of the Convention; (vi) adds that Act 3 of 2012 on urgent measures for labour market reform removed occupational categories from the system of the occupational classification of workers on the grounds that in many cases the categories were indirectly responsible for wage discrimination against women, and provided that the definition of occupational groups shall be adjusted to criteria and systems which have the objective of ensuring the absence of direct and indirect discrimination between men and women (section 22(3)); and (vii) recognizes that the wage gap continues to be a serious problem which requires the adoption of additional measures for its reduction and emphasizes the importance of collective bargaining for this purpose. ***The Committee requests the Government to continue its efforts to reduce the gender wage gap, in collaboration with workers' and employers' organizations, and to monitor the impact of the measures adopted with a view to identifying and adopting the necessary adjustments. The Committee also requests the Government to: (i) continue providing information on the measures adopted or envisaged, including any measure to promote and provide training on the principle of the Convention and on the self-diagnosis tool for the gender wage gap and for the evaluation of jobs from a gender perspective made available to enterprises by the Women's Institute for Equality of Opportunities; and (ii) to provide information on any measures adopted to address the underlying causes of the wage gap. Please also provide statistical information disaggregated by sex on the participation of men and women in the labour market (with an indication of the sectors in which they are engaged and their wage levels), in education and vocational training.***

Labour inspection. In its previous comments, the Committee requested the Government to continue providing information on the measures adopted and the investigations carried out by the labour inspection services, particularly on the action taken under Instruction No. 3/2011 on the monitoring in enterprises of effective equality between men and women. The Committee notes the information provided by the Government on the results of the specific campaigns undertaken by the labour inspection services on gender wage discrimination in 2014, 2015 and 2016 in 446, 414 and 408 enterprises, respectively, throughout the country. The Committee notes that in 2014 gender wage discrimination was detected in four enterprises, as well as the same number of enterprises in 2015 and two enterprises in 2016. The Committee also notes that, according to the CCOO, the action taken by the labour inspection services is inadequate and, although the tool to detect the existence of wage gaps marks progress, there is no record of the number of enterprises which have used it and whether, in the event that a wage gap is detected, it has been corrected. The Committee notes that, in its response to the observations of the CCOO, the Government indicates that a central feature of the action taken by the labour inspection services is that concerning the application of the principle of the Convention which goes beyond the specific campaigns, and which supplements but does not account for the totality of the activities undertaken by the labour inspection system in relation to wage equality for men and women. The Government adds data on the activities of the labour inspection services undertaken in relation to gender equality. ***The Committee requests the Government to continue providing information on the measures adopted and the investigations carried out by the labour inspection services in relation to equal remuneration for men and women for work of equal value. Recalling the persistence of a substantial gender wage gap and the fact that 89 per cent of women in employment are in the low-wage services sector, the Committee requests the Government to indicate specific measures undertaken or contemplated by labour inspection services to improve enforcement of national laws related to effective implementation of the Convention.***

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1967)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO), received on 11 August 2017, and of the General Union of Workers (UGT), received on 17 August 2017, both also transmitted by the Government, and the Government's corresponding responses. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2017, which support and endorse the observations of the Spanish Confederation of Employers' Organizations (CEOE), transmitted by the Government, and the Government's response. The Committee notes that in its observations the CEOE makes comments of a fundamentally linguistic and terminological nature which have been included by the Government in its report.

Article 1(1)(a) of the Convention. Discrimination based on race, colour, religion and national extraction. In its previous comments, the Committee requested the Government to ensure that the necessary resources were allocated for the implementation of the action and measures envisaged under the Strategic Plan for Citizenship and Integration (PECI) 2011–14, particularly within the framework of the comprehensive strategy to combat racism, racial discrimination, xenophobia and other forms of intolerance. It also requested the Government to: (i) assess the impact of such action and measures addressing discrimination in employment and occupation against men and women on grounds of race, colour, religion and national extraction, particularly in relation to the situation of migrant workers and the Roma; and (ii) to provide information on the mapping of discrimination in Spain, which involved undertaking perception surveys and the systematic compilation of empirical and official data on complaints, violations, penalties and offences relating to discrimination, and the measures adopted as a result, the obstacles and difficulties encountered. The Committee notes the Government's indication in its report that, in the context of the project "Map of Discrimination in Spain", a comprehensive survey was undertaken for the first time of perceptions of discrimination in the country in 2013, and was replicated in 2016. The Government indicates that various types of measures have been adopted based on the conclusions of these surveys and that progress is being made in the systematic compilation of empirical and official data on complaints, violations, penalties and offences related to discrimination. The Committee also notes the Government's indication concerning the publication of guides on "How to act in cases of discrimination, hate crime and intolerance" intended for citizens in general and technical personnel in social institutions and non-governmental organizations, and the various training programmes on equality and non-discrimination intended for public employees and lawyers.

The Committee notes the UGT's indication in its observations that there is no specific budgetary allocation for the PECI and that the budget allocated for the integration of foreign nationals has been falling since 2012. The UGT adds that, although the PECI envisaged an intermediary evaluation, an external evaluation during its final stage and a final evaluation, these evaluations have not been undertaken. The UGT further adds that the Government has not indicated any intention to engage in the development of a third phase of the PECI.

The Committee also notes the reform prepared by the Spanish Observatory of Racism and Xenophobia on the "Integration of the children of immigrants in the labour market", which finds, on the one hand, that the educational levels of the native population are significantly higher than those of the children of immigrants (61 per cent compared with 37 per cent with higher vocational training or university studies) and, on the other hand, that the existing differences in educational levels do not adequately explain the differences in the types of work obtained by the various groups, which would appear to suggest the existence of a certain level of discrimination in enterprises when selecting and recruiting young persons of foreign origin for the various types of job. The report suggests certain approaches in this regard, including the provision to young persons of permanent support and guidance services for their vocational careers and

awareness-raising activities for enterprises on discrimination with a view to encouraging them to adopt mechanisms which prevent the risk of racist or xenophobic views entering into selection processes.

The Committee also notes the report “Evolution of discrimination in Spain”, dated 24 August 2018, of the Ministry of Health, Social Services and Equality, which analyses discrimination in the country on the basis of the surveys carried out in 2013 and 2016, referred to above, and brings to light the following aspects: (i) in terms of perceived discrimination, in the working environment, greater discrimination was perceived in 2016 in selection for employment positions, and particularly in access to positions of responsibility; (ii) the gypsy population still perceives itself as the group most affected by discrimination in access to employment; and (iii) in general, discrimination on ethnic or racial grounds continues to be the most widely perceived form of discrimination.

The Committee also notes the Operational Plan 2018–20 of the National Strategy for the Social Inclusion of the Gypsy Population 2012–20, available on the website of the Ministry of Health, Consumption and Social Welfare, which includes among its objectives improving the access to employment and reducing precarious work among the gypsy population and improving their vocational skills. The Committee notes that, according to the Operational Plan, the action to be taken in the next few years will be intended to: (i) promote greater participation by young and adult gypsies in employment and employability programmes; (ii) supplement employment and employability programmes for the population as a whole with specific programmes in coordination with associations representing gypsies; and (iii) make progress to improve coordination between the social services and employment services. ***The Committee encourages the Government to continue monitoring the evolution of discrimination in employment and occupation based on race, colour, religion and national extraction throughout the country, in collaboration with workers’ and employers’ organizations. It requests the Government to provide information on the measures adopted or envisaged as a result of the diagnostic studies undertaken, particularly in relation to the children of immigrants, migrant workers, including migrant domestic workers, the Roma, and on the measures adopted in the context of the National Strategy for the Social Inclusion of the Gypsy Population 2012–20 and their results. The Committee also requests the Government to assess the impact of the action and measures taken to address discrimination in employment and occupation based on race, colour, religion and national extraction, and to provide information on this subject.***

Article 2. Equality of opportunity between men and women. In its previous observation, the Committee requested the Government to continue taking proactive measures with a view to increasing the number of enterprises adopting equality plans and to indicate whether these plans are the outcome of collective bargaining. The Committee also requested the Government to provide information on the measures adopted within the framework of the Strategic Plan for Equality of Opportunity (PEIO) 2014–16 and the Special Plan for Equality for Women and Men in the World of Work and against Wage Discrimination 2014–16, as well as on the manner in which such measures are adjusted to the present crisis situation and the impact of such measures on the promotion of equality between men and women. It further requested information on the outcome of the evaluation of the Basic Act on effective equality for women and men of 22 March 2007 (No. 3/2007). The Committee notes that the Government has provided information on calls for subsidies for the development of equality plans, through which financing was provided to 273 projects during the period 2014–16, as well as on the advisory services, awareness raising, training and citizens’ information provided for the development of enterprise equality plans, which were managed by the Women’s Institute for Equality of Opportunities (IMIO). With regard to the participation of the social partners in the preparation of these plans, the Government recalls that, under the terms of section 45(5) of Basic Act No. 3/2007, “the development and implementation of equality plans is voluntary [for enterprises with fewer than 250 workers], based on prior consultation with the legal representatives of men and women workers”. In the case of enterprises with over 250 workers, such plans have to be the subject of negotiation. The Government adds that it will provide information on the findings of the evaluation of the PEIO 2014–16 when they are available. The Committee further notes the Government’s indication that the Special Plan for Equality for Women and Men in the World of Work and against Wage Discrimination 2014–16 was not approved. With reference to the evaluation of the Basic Act No. 3/2007, the Committee notes the Government’s indication that a periodic report 2012–13 was prepared, as well as a report on the principal activities 2014–15, which show that the socio-labour situation of women is improving slowly and that higher levels of equality are being achieved in almost all areas, although there continue to be obstacles and resistance to such changes.

The Committee also notes that, according to the CCOO, despite the fact that a significant number of equality plans have been negotiated and concluded in recent years, there are still many enterprises in which the process has not been commenced. The CCOO indicates that it is difficult to know precisely the number of equality plans which have so far been signed or are under negotiation. It adds that there is resistance by enterprises to the provision of data, and particularly wage data, as a basis for assessing the situation prior to the preparation of an equality plan. The Committee further notes that, according to the CCOO, very few agreements contain affirmative action measures in relation to the recruitment and promotion of personnel. The CCOO refers to the practice identified in certain agreements of indicating that “in the event of equal skills and capacities, the person with the greatest seniority in the enterprise shall be chosen”, which benefits men, as women have tended to enter the labour market later, and also have career interruptions due to their care work. With reference to the PEIO 2014–16, the CCOO indicates that the envisaged measures are generic and imprecise and that no information has been provided on the preparation of a new plan. The CCOO recalls that the fifth final provision of the Basic Act No. 3/2007 provides that “the Government shall undertake an evaluation, with the most representative unions

and employers' associations, of the situation of collective bargaining in relation to equality, and shall examine, on the basis of the changes noted, the measures which may be appropriate". The CCOO indicates in this respect that a report on the impact of the Act was commissioned from a university, which may be considered as a replacement for the evaluation required by the Act in the above provision. The Committee notes that in its response to the CCOO's observations, the Government indicates that: (i) the PEIO has been implemented through specific plans, namely the Plan of Action for Equality between Men and Women in the Information Society, approved in 2014, and the Plan for the Promotion of Women in Rural Areas, approved in 2015; and (ii) the IMIO is preparing the basic priorities of a new Strategic Plan for Equality of Opportunity. With reference to the issues of occupational segregation and equality of remuneration between men and women, the Committee refers to its comments under the Equal Remuneration Convention, 1951 (No. 100). The Committee recalls the important role played by workers' and employers' organizations in developing and promoting the acceptance and observance of national policies and plans, as well as in evaluating their impact. The cooperation and consultation process provided for in the Convention assist in ensuring that the measures enjoy wide support and that policies are effectively implemented (2012 General Survey on the fundamental Conventions, paragraph 858). ***The Committee requests the Government to continue adopting proactive measures, in collaboration with the social partners, with a view to increasing the number of enterprises which adopt equality plans. The Committee also requests the Government to provide information on the findings of the evaluation of the PEIO 2014–16 and on any other measure envisaged or adopted under the PEIO with a view to promoting and guaranteeing equality of opportunity and treatment for men and women in the public and private sectors. Please also provide information on the application and impact of the new Strategic Plan for Equality of Opportunity.***

The Committee is raising other matters in a request addressed directly to the Government.

Sri Lanka

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

Article 1 of the Convention. Work of equal value. Legislation. The Committee previously expressed concern at the absence of legislation providing for equal remuneration for men and women for work of equal value, as well as at the limitations of the principle of equal wages for the "same" or "substantially the same" work, arising out of wage ordinances and collective agreements. The Committee notes the Government's repeated indication, in its report, that while no legislative provision explicitly prohibits discrimination in employment, wage ordinances and collective agreements do not contain discriminatory provisions in determining wages. While noting that the Policy Framework and National Plan of Action to address Sexual and Gender-based Violence for 2016–20, elaborated with the assistance of the United Nations Development Programme (UNDP), set as an objective to ensure equal remuneration for "similar work", the Committee again draws the Government's attention to the fact that the concept of "work of equal value", which lies at the heart of the fundamental right of equal remuneration for men and women for equal value, goes beyond equal remuneration for "equal", "the same" or "similar" work, and also encompasses work that is of an entirely different nature, but which is nevertheless of equal value. It further recalls that when collective agreements or wage ordinances do not explicitly provide for different remuneration rates for men and women or when they only prohibit sex-based wage discrimination generally, this will not normally be sufficient to give effect to the Convention, as it does not fully capture the concept of "work of equal value" set out in the Convention (see 2012 General Survey on the fundamental Conventions, paragraphs 673 and 676). ***Regretting that unlike the previous National Action Plan for the Protection and Promotion of Human Rights, the new Human Rights Action Plan for 2017–21 does not include "equal pay for work of equal value" as an explicit objective anymore, the Committee again urges the Government to take all the necessary steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, and to provide information on any concrete steps taken in this regard.***

Articles 1 and 2. Assessment of the gender pay gap. Noting that the Government only refers to the statistical information forwarded, the Committee draws the Government's attention to the fact that the information provided does not enable the Committee to assess the application of the principle of the Convention in practice. The Committee notes that women represented only 37.3 per cent of the economically active population in 2017 (against 62.7 per cent for men) and that despite steady economic growth, the employment rate of women remained low at 36 per cent in 2017 (against 41 per cent in 2010), with more than one third of working women employed in the informal economy, characterized by low wages. It notes with **concern** that, according to the "Survey on hours actually worked and average earnings" published by the Statistics Division of the Department of Labour in 2016, the average earnings of women are lower than those of men in almost all economic sectors, even when men and women workers are employed in the same occupational category. The Committee further notes that, in its last concluding observations, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) expressed concern about the historically low participation of women in the labour market, and that women tend to be employed in low-paying jobs in tea plantations and the garment sector. It recommended that the Government take steps to effectively address sociocultural barriers that may have a negative impact on women's opportunities for employment, particularly in sectors with high wage levels (E/C.12/LKA/CO/5, 4 August 2017, paragraphs 25 and 26). The Committee also notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the wide gender wage gap, the limited implementation and monitoring of the principle of equal pay for work of equal value and the concentration of women in

the informal employment sector (CEDAW/C/LKA/CO/8, 3 March 2017, paragraph 32). *Taking into consideration the wide gender pay gap and the persistent gender segregation in the labour market, the Committee requests the Government to strengthen its efforts to take more proactive measures, including with employers and workers' organizations, to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value, as enshrined in the Convention. It requests the Government to provide information on the specific measures taken to address the gender remuneration gap by identifying and addressing the underlying causes of pay differentials such as vertical and horizontal job segregation and gender stereotypes, covering both the formal and informal economy, and by promoting women's access to a wider range of jobs with career prospects and higher pay. Recalling that collecting, analysing and disseminating information is important in identifying and addressing inequality in remuneration, it requests the Government to provide updated statistical information on the average level of earnings of men and women, disaggregated by economic activity and occupation, both in the private and public sectors, as well as in the informal economy.*

Article 2. Minimum wages. Wages boards. Referring to its previous comments, the Committee notes the Government's statement that sex-specific terminology is no longer used in the wages board's decisions. Regarding the Government's earlier request for ILO technical assistance for the simplification of the wages boards system, the Committee notes that, in light of the future adoption of the Single Employment Law to replace the Wages Board Ordinance, the Shop and Office Employees Act, the Employment of Women, Young Persons and Children Act and the Maternity Benefits Ordinance – without prejudice to the labour rights guaranteed at present by labour laws – this request is now redundant. The Committee welcomes the adoption of the National Minimum Wage Act No. 3 of 2016 which sets a national minimum wage, but notes that, in its concluding observations, the CESCR expressed concern about the fact that the Act does not cover workers in the informal economy, those not unionized, those on daily wages (for example plantation workers) and domestic workers (E/C.12/LKA/CO/5, 4 August 2017, paragraph 31). *Recalling that the setting of minimum wages can make an important contribution to the application of the principle of the Convention which applies to all workers, in all sectors, both in the formal and informal economy, and noting that according to the National Action Plan for the Protection and Promotion of Human Rights 2017–21 the Government will consider the ratification of the Domestic Workers Convention, 2011 (No. 189), the Committee requests the Government to indicate how equal remuneration for men and women for work of equal value is also ensured for workers who are not covered by the National Minimum Wage Act, including workers in the informal economy, those not unionized, those on daily wages such as plantation workers, as well as domestic workers, which are sectors characterized by a high proportion of women and particularly low wages. It also requests the Government to provide information on the progress made in simplifying the wages boards system, as well as on the measures taken to ensure that the rates of wages fixed by the wages boards are based on objective criteria free from gender bias (such as qualifications, effort, responsibilities and conditions of work), so that work predominantly done by women, as well as skills considered to be “female” (such as, for example, manual dexterity and those required in the caring professions) are not undervalued or even overlooked, compared to work predominantly done by men or skills traditionally considered to be “male” skills (such as heavy lifting).*

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1998)

Article 1 of the Convention. Legislative protection against discrimination. For a number of years, the Committee has been urging the Government to introduce provisions into its national legislation ensuring that all men and women, citizens and non-citizens, are effectively protected from discrimination in all aspects of employment and occupation on all the grounds enumerated in *Article 1(1)(a)* of the Convention. It previously drew the Government's attention to the fact that articles 12, 14 and 17 of the Constitution addressing discrimination appear to cover citizens only and do not prohibit discrimination on the grounds of colour or national extraction. The Committee welcomes the Government's statement, in its report, that it will discuss this matter with all relevant stakeholders exploring the possibility of amending the existing labour legislation or adopting new legislation to address discrimination in employment. The Committee notes that the National Action Plan for the Protection and Promotion of Human Rights for 2017–21 sets, as an explicit objective, the enactment legislation to guarantee the right to non-discrimination on any prohibited ground, including sex, race, ethnicity, religion, caste, place of origin, gender identity, disability or any other status in all workplaces, including in the private sector. However it draws the Government's attention to the fact that the Action Plan does not refer to the grounds of “colour”, “political opinion”, “national extraction” and “social origin” which are enumerated in *Article 1(1)(a)*. The Committee notes that, in their concluding observations, several United Nations treaty bodies (Committee on Economic, Social and Cultural Rights; Committee on the Elimination of Discrimination against Women; Committee on Migrant Workers; Committee on the Elimination of Racial Discrimination) also expressed concern about the national legislation which does not prohibit discrimination on the grounds of colour or national extraction and does not specifically prohibit both direct and indirect forms of discrimination (E/C.12/LKA/CO/5, 4 August 2017, paragraph 13; CEDAW/C/LKA/CO/8, 3 March 2017, paragraph 10; CMW/C/LKA/CO/2, 11 October 2016, paragraph 26; and CERD/C/LKA/CO/10-17, 6 October 2016, paragraph 8). In that regard, the Committee recalls that clear and comprehensive definitions of what constitute discrimination in employment and occupation are instrumental in identifying

and addressing the many manifestations in which it may occur (see the 2012 General Survey on the fundamental Conventions, paragraph 743). ***The Committee urges the Government to take all the necessary steps to introduce specific legislative provisions in order to ensure that all men and women, citizens and non-citizens, are effectively protected from both direct and indirect discrimination in all aspects of employment and occupation and on all the grounds enumerated in the Convention, including colour and national extraction. It requests the Government to provide information on any progress made in this regard. The Committee again requests the Government to provide information on the number and nature of employment discrimination cases that have been handled by the Supreme Court pursuant to articles 12(1) and 17 of the Constitution, and their outcome, as well as copies of any relevant judicial decisions.***

Article 1(1)(a). Discrimination based on sex. Sexual harassment. While welcoming the voluntary Code of Conduct and Guidelines to Prevent and Address Sexual Harassment in Workplaces developed in 2013 by the Employers' Federation of Ceylon, in collaboration with the ILO, the Committee previously raised concerns regarding the absence of effective protection of workers against sexual harassment in employment and occupation. It notes the Government's indication that articles 11 and 12 of the Constitution, on freedom from torture and right to equality respectively, can serve as a legal basis for victims of sexual harassment, and that courts have considered demands for sexual favours for job promotion as a "bribe" punishable under the Bribery Act, 1980. While noting that these general provisions do not explicitly refer to "sexual harassment", the Committee notes that the Government again refers to section 345 of the Penal Code covering sexual harassment, without providing the requested information in order to clarify the scope of the provision regarding the interpretation of the expression "a person in authority". The Committee welcomes the inclusion in the National Action Plan for the Protection and Promotion of Human Rights for 2017–21 of proposed legislation to specifically deal with sexual harassment in the workplace both in the public and private sectors. The Committee also welcomes the plan to take steps to ensure that employers both in the public and private sectors introduce mandatory guidelines and appoint committees to respond to sexual harassment, in consultation with employers' and workers' organizations. It notes that the Policy Framework and National Plan of Action to address Sexual and Gender-based Violence for 2016–20, developed with the assistance of the United Nations Development Programme (UNDP), which highlights that women working in Export Processing Zones (EPZs) are particularly exposed to sexual harassment, also provides for the promotion of a policy to address sexual harassment in workplaces and implementing mechanisms to address sexual harassment in the private sector. However, the Committee notes that in its concluding observations the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the high levels of gender-based violence against women, with cases of violence against women being underreported due to a lack of adequate legislation, women's limited access to justice for reasons including fear of reprisals, limited trust in the police and judiciary, extreme delays in the investigation and adjudication of such cases, arbitrary outcomes, and very low conviction rates. The CEDAW also expressed concern at the lack of disaggregated data on sexual harassment in the workplace and on measures taken to address such cases (CEDAW/C/LKA/CO8, 3 March 2017, paragraphs 22 and 32). ***Referring to the National Action Plan for the Protection and Promotion of Human Rights for 2017–21, the Committee urges the Government to take the necessary steps to include specific legislative provisions that clearly define and prohibit all forms of sexual harassment in the workplace, both quid pro quo and hostile environment harassment, and requests the Government to provide information on any progress made in this regard. It again requests the Government to indicate whether section 345 of the Penal Code applies only to sexual harassment committed by a person with authority or also by a co-worker, a client or a supplier, of the enterprise. It requests the Government to provide information on any steps taken to ensure that employers both in the public and private sectors introduce mandatory guidelines and appoint committees to respond to sexual harassment, in consultation with employers' and workers' organizations, including within the framework of the National Action Plan for the Protection and Promotion of Human Rights for 2017–21 and the National Plan of Action to address Sexual and Gender-based Violence for 2016–20. The Committee requests the Government to provide information on the measures taken to promote women's access to justice, including by ensuring that they have a better knowledge of their rights and of the legal procedures available, as well as the number of complaints concerning sexual harassment in the workplace lodged, penalties imposed and compensation awarded, including in the context of unjustified termination.***

Article 2. Equality of opportunity and treatment between men and women. Referring to its previous comments, the Committee notes the Government's statement that the Women's Rights Bill was renamed Women's Commission Bill and the draft bill was prepared in 2017 and awaiting Attorney General's certificate on constitutionality. The Committee takes note of the Local Authorities Elections (Amendment) Act No. 1 of 2016 which includes a 25 per cent quota for women in local public bodies, but notes that, in its concluding observations, the United Nations Committee on Economic, Social and Cultural Rights (CESCR) indicated that despite this new legislation, the participation of women in political and public life and in decision-making remains very low (E/C.12/LKA/CO/5, 4 August 2017, paragraph 23). The Committee notes that, in 2017, women represented only 37.3 per cent of the economically active population (against 62.7 per cent for men) and that despite steady economic growth, the employment rate of women remained low at 36 per cent (against 41 per cent in 2010). It notes, from the 2016 Annual Employment Survey that there is both vertical and horizontal occupational gender segregation, with women being concentrated in the agriculture, manufacturing and education sectors, as well as in elementary occupations (28.5 per cent) and clerical support (13 per cent), while only few women are employed in managerial and senior official positions (3.3 per cent) or as technical and associate professionals (4.5 per

cent). It notes in particular that, in its last concluding observations, the United Nations Committee on Migrant Workers (CMW) highlighted that women in Sri Lanka continue to be compelled to become domestic migrant workers owing to the lack of equal access to employment (CMW/C/LKA/CO/2, 11 October 2016, paragraph 52). The Committee welcomes the measures included in the National Action Plan for the Protection and Promotion of Human Rights for 2017–21 which aims to increase the participation of women in employment both in the public and private sectors, including by training women for higher skilled occupations in the formal and non-traditional areas, as well as closing the gender gap in the formal sector by providing childcare facilities, encouraging more flexible work arrangements and promoting men's roles and responsibilities in childcare and family duties. ***The Committee requests the Government to provide detailed information on any policy and measures adopted, in the framework of the National Action Plan for the Protection and Promotion of Human Rights for 2017–21 or otherwise, to enhance women's access to employment and to a wider range of jobs and higher level positions, including through measures aimed at combating stereotypes regarding women's capabilities and role in the society and better reconciling work and family responsibilities. The Committee requests the Government to provide information on the status of the adoption of the Women's Commission Bill, as well as a copy of the new legislation once adopted. It requests the Government to provide updated statistical information on the participation of men and women in education, training and employment, both in the public and private sectors, including in the informal economy, disaggregated by occupational categories and positions, as well as on the number of women in Sri Lanka employed as domestic migrant workers (including domestic migrant workers).***

The Committee is raising other matters in a request addressed directly to the Government.

Tajikistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)

The Committee notes with ***regret*** that the Government's report once again contains no information in response to a number of its previous comments. The Committee wishes to reiterate that without the necessary information, it is not in a position to assess the effective implementation of the Convention, including any progress achieved since its ratification. ***The Committee hopes that the next report will contain full information on the issues raised below.***

Articles 1 and 2 of the Convention. Gender wage gap. Private sector. In its previous comments, the Committee noted the persistence of both the gender wage gap and occupational gender segregation. It also noted that agricultural workers were still paid the lowest wage in the economy (367.59 Tajikistani Somoni (TJS) for men and TJS211.34 for women, approximately US\$39 and \$22 respectively) and that women were concentrated in the informal economy and in low-paid jobs. The Committee therefore requested that the Government step up its efforts to address the gender wage gap, particularly in the agricultural sector, and that it provide information on the measures taken in this regard. It also requested that the Government provide information on the measures taken to improve access of women to a wider range of job opportunities at all levels to address the occupational gender segregation. The Committee notes, from the Government's report, the adoption of a national strategy to enhance the role of women and girls 2011–20 and a state programme on the education, selection and appointment of managerial positions in the Republic of Tajikistan from among capable women and girls 2007–16. With regard to the fact that workers with the lowest paid jobs are found in the agricultural sector, the Government indicates that trade unions intend to make proposals to amend the General Agreement for the period 2018–20. The Government also indicates, in its report on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), that as a result of the state programme, in 2017, 1,002 women in need of special social protection were provided with employment and that 528 entrepreneurial initiatives from women received financial assistance. Further, the Committee notes, from the Government's sixth periodic report submitted under the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the establishment of presidential grants to support and develop women's entrepreneurial activities in 2016–20, the Plan of Action of the National Strategy on promoting the role of women 2015–20 and the National Development Strategy of the Republic of Tajikistan for the period up to 2030, which includes a special section addressing existing problems of inequality and discrimination, particularly for women in rural areas, and ways of resolving them (CEDAW/C/TJK/6, 2 November 2017, paragraph 136). ***The Committee requests the Government to provide detailed information on the measures taken in the framework of the abovementioned policies to improve the access of women, especially women in rural areas, to job opportunities at all levels, including as managers of farms, and on the impact of such measures. The Committee further requests the Government to pursue its efforts to address the gender wage gap, particularly in the agricultural sector, and to provide information on the measures taken in this regard and the results obtained with regard to achieving pay equity. Finally, noting the absence of information provided in this regard, the Committee once again requests the Government to provide detailed and up-to-date statistics on wages of women and men, including sex disaggregated data by industry and occupational category.***

Civil service. In the absence of any information provided in this regard, the Committee once again requests the Government to indicate how it ensures equal remuneration for men and women for work of equal value in the civil service in practice and to provide statistical information disaggregated by sex on the distribution of men and women in the various occupations and grades in the civil service, and their corresponding earnings.

Article 2. Legislation. In its previous comments, the Committee asked the Government to clarify whether section 102 of the Labour Code and section 13 of the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights, No. 89 of 1 March 2005, both provided for equal pay for “work of equal value” or for “equal work”. The Committee takes due note that the wording of section 140 of the new Labour Code 2017 and section 13 of the above-mentioned Framework Law of 2005 both guarantee equal remuneration for work of equal value. Noting however that, once again, the report is silent on the application of these provisions in practice, the Committee stresses that the continued persistence of significant gender pay gaps requires that governments, along with employers’ and workers’ organizations take measures to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 669). **Consequently, the Committee reiterates its request to the Government that it provide information on the practical application of section 140 of the Labour Code 2017 and section 13 of Framework Law No. 89 of 1 March 2005.**

Article 3. Wage determination. The Committee previously noted the adoption of Government Decree No. 98 of 5 March 2008, to approve the concept of wage reforms in the Republic of Tajikistan, which provides, among others, for mechanisms of state regulation of wage determination. In this context, it requested the Government to provide information on the measures taken to ensure that the principle of equal remuneration for men and women for work of equal value is being taken into account. The Committee notes that the Government has not provided any information in this regard. **The Committee therefore once again requests the Government to provide information on the measures taken to ensure that the principle of equal remuneration for men and women for work of equal value is being taken into account in the context of state regulation of wage determination.**

Article 4. Collective agreements. The Committee previously requested the Government to provide examples of collective agreements covering different sectors, to indicate how these agreements promote the principle of equal pay for work of equal value, and to indicate the percentage of the workforce covered by collective agreements. The Committee takes note of the Government’s indication that there are 20 sectorial trade union committees covering all sectors of employment. The Government also indicates that trade union committees work with employers on basic wage agreements and collective agreements. While taking due note of the information provided, the Committee notes that the Government does not indicate how collective agreements promote the principle of the Convention. **The Committee therefore once again requests the Government to provide examples of collective agreements covering different sectors and to indicate how these agreements promote the principle of equal remuneration for men and women for work of equal value. It also requests the Government to indicate the percentage of the workforce covered by collective agreements, disaggregated by sex.**

Enforcement. The Committee previously noted that a Coordinating Council on Gender Issues has been established in the Ministry of Labour and Social Protection and the State Labour Inspectorate to monitor discrimination against women in the labour market and requested the Government to provide information on its activities regarding equal remuneration for men and women. The Committee also requested the Government to provide information on cases of violations of the principle of equal remuneration dealt by the labour inspectorate or the courts. The Committee notes the Government’s indication that no complaints regarding remuneration have been recorded. **The Committee once again requests the Government to provide information on the activities of the Coordinating Council on Gender Issues to monitor sex-based discrimination regarding remuneration. With regard to the lack of complaints, the Committee refers the Government to its comments under Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and requests the Government to indicate the measures taken or envisaged to ensure that the principle of the Convention is enforced by the courts and the labour inspectorate. Once again, the Committee requests the Government to provide information on the number of violations of section 140 of the Labour Code dealt with by the Ministry of Labour and Social Protection and the State Labour Inspectorate, and indicate whether the courts have dealt with any cases concerning the principle of equal remuneration for men and women for work of equal value.**

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1993)

Article 2 of the Convention. Equality of opportunity and treatment between men and women. Legislative developments. Noting that the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights No. 89 of 1 March 2005 (Law on State Guarantees of 2005) contains a number of provisions prohibiting discrimination based on gender in all spheres, including in employment, and promoting the principle of equal opportunities for men and women, the Committee had requested the Government to provide information on its implementation in practice. The Committee notes the Government’s indication, in its report, that the Government Decree No. 608 of December 2006 approved the Regulation on the Committee for Women’s and Family Affairs (CWFA), which is the central authority responsible for the implementation of State policy to protect and provide for the rights and interests of women and families. The Committee notes, however, that the Government does not provide any information on the activities of the CWFA to implement the Law on State Guarantees of 2005. Further, it notes that the Government has not provided any information on the manner in which violations of the Law on State Guarantees of 2005 are dealt with. In that regard, the Committee wishes to stress that legislative measures to give effect to the principles of the Convention are important but not sufficient to achieve its objective and that effectively responding to the complex

realities and variety of ways in which discrimination occurs requires the adoption of differentiated measures, such as proactive measures designed to address the underlying causes of discrimination and de facto inequalities resulting from discrimination deeply entrenched in traditional and societal values (see 2012 General Survey on the fundamental Conventions, paragraph 856). *The Committee therefore again requests the Government to provide information on the implementation in practice of the Framework Law on State Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights, No. 89 of 1 March 2005 (such as for example, through the development of codes, tools and guides or affirmative action measures) including on the manner in which violations of its provisions are being addressed by the CWFA, the labour inspectorate or the courts.*

The Committee is raising other matters in a request addressed directly to the Government.

The former Yugoslav Republic of Macedonia

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1991)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments initially made in 2015.

Legislative developments. The Committee notes the adoption of the new Law on Equal Opportunities for Women and Men, 2012. In accordance with article 2, this Law aims to establish equal opportunities and equal treatment for men and women in various fields, including the economic, social and education fields and in the public and private sectors. Articles 7 and 8 provide for the adoption of temporary special measures to overcome an existing structural gender inequality, including through positive and promotional measures. *The Committee requests the Government to provide information on the concrete measures taken for the general implementation of this Law and its impact on the achievement of gender equality in both the public and the private sectors. It also requests the Government to provide information on any special measures taken under articles 7 and 8 to achieve equality in employment and occupation and any special protective measures in favour of certain categories of persons.*

Sexual harassment. The Committee also notes that article 3(3) of the new Law expressly prohibits sexual harassment in the public and private sectors, and that sexual harassment is defined, in article 4(7), as being any type of unwanted behaviour of a sexual nature creating an intimidating or hostile atmosphere. *The Committee requests the Government to confirm that the law covers both quid pro quo and hostile environment sexual harassment at work. It also requests the Government to provide information on the practical measures taken to prevent and address sexual harassment in employment and occupation. The Government is also requested to provide information on any instances of sexual harassment addressed by the competent authorities, including any relevant administrative or judicial decisions and the sanctions imposed.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Trinidad and Tobago

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Articles 1 and 2 of the Convention. Assessing and addressing the gender pay gap. The Committee notes from the statistics provided by the Government on the average monthly income by sex and occupational group that in 2012 the gender pay gap between men and women ranged from 10 per cent (for technician and associate professionals) to 41.8 per cent (for service and shop sales workers). The statistics concerning the average monthly income by sex and industry also show a gender pay gap in favour of men (except in construction), ranging from 1.7 per cent in the transport, storage and communication industry to 50 per cent in the sugar industry in 2010. The Committee welcomes the increase of the national minimum wage as of January 2011, and recalls that women generally predominate in low-wage employment, and that a uniform national minimum wage system helps to raise the earnings of the lowest paid, which has an influence on the relationship between men and women's wages and on reducing the gender pay gap (see 2012 General Survey on the fundamental Conventions, paragraphs 682–685). *Noting that in its report, the Government commits to addressing the gender pay gap and occupational gender segregation, the Committee requests the Government to provide information on the concrete steps taken and the progress made in this regard. Please continue to provide detailed statistical data on the earnings of men and women according to occupational group and industry, as well as information on the minimum wage.*

Equal remuneration for work of equal value. Legislation. The Committee recalls that the Equal Opportunity Act, 2000, contains no specific provisions regarding equal remuneration for men and women for work of equal value. The Government indicates that, in giving effect to the Act, the courts would treat unequal remuneration for men and women for work of equal value as sex-based discrimination. It further indicates that the Equal Opportunity Commission (EOC) acknowledges that the concept of "work of equal value" lies at the heart of the fundamental right to equal remuneration for men and women for work of equal value and the promotion of equality. While noting the Government's indications, the Committee would like to recall that only prohibiting sex-based wage discrimination is normally not sufficient to implement effectively the principle of the Convention as it does not capture the concept of "work of equal value". *The Committee once again urges the Government to take steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value and to provide information on any progress in this regard.*

Collective agreements. Since 2000, the Committee has been asking the Government to provide information on the progress made in removing sex discriminatory clauses from collective agreements. The Committee notes that the report once again contains no information in this respect. The Committee notes with *regret*, however, that in the new collective agreement on

wages and conditions of service for hourly, daily and weekly rates employees employed in the Port-of-Spain Corporation for 2011–13, sex-specific terminology remains in use to describe a category of workers in the schedule of wage rates which are not gender-neutral (for example, greaseman, batteryman, watchman, handyman, charwoman, female scavenger, labourer (female), labourer (male), etc.). The Committee wishes to recall that, in specifying different occupations and jobs for the purpose of fixing wage rates, gender-neutral terminology should be used to avoid stereotypes as to whether certain jobs should be carried out by a man or a woman (see 2012 General Survey, paragraph 683). *The Committee asks the Government to indicate how it is ensured that, in determining wage rates in collective agreements, the principle of equal remuneration for men and women for work of equal value is effectively taken into account by the social partners and applied, and the work performed by women is not being undervalued in comparison to that of men who are performing different work and using different skills but that is overall of equal value. The Committee also asks the Government to provide information on the progress made in removing sex discriminatory clauses from collective agreements, and to take steps, in collaboration with the employers' and workers' organizations, to promote the use of gender-neutral terminology in referring to the various jobs and occupations in the collective agreements.*

The Committee is raising other points in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1970)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 1(1)(a) of the Convention. Discrimination based on sex. For nearly 20 years, the Committee has been expressing concern about the discriminatory nature of several provisions providing that married female officers may have their employment terminated if family obligations affect the efficient performance of their duties. In this regard, the Committee welcomes the Government's indication that Regulation 57 of the Public Service Commission Regulations was revoked in 1998 and Regulation 58 of the Statutory Authorities Service Commission Regulations was revoked in 2006. The Government also indicates that Regulation 52 of the Police Commission Regulations, which provides that the appointment of a married female police officer may be terminated on the ground that her family obligations are affecting the efficient performance of her duties, will be put before the Police Service Commission for consideration. The Committee further recalls the potentially discriminatory impact of section 14(2) of the Civil Service Regulations, which requires a female officer who marries to report the fact of her marriage to the Public Service Commission. *The Committee requests the Government to take the necessary steps to revoke Regulation 52 of the Police Commission Regulations to eliminate this long-standing discriminatory provision, and to provide information on any progress made in this regard. The Committee also requests the Government to provide information on the measures taken to amend section 14(2) of the Civil Service Regulations to eliminate any potentially discriminatory impact, for example by requiring notification of name changes for both men and women.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Ukraine

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)

Articles 1 and 2 of the Convention. Gender pay gap. In its previous comments, the Committee noted that the gender pay gap had not decreased since 2009 and that there was a significant gap in the monthly wages of women and men in certain sectors of the economy. The Government explained that, differences in wages were largely due to the system of the gender division of labour, with women being concentrated in sectors with relatively high educational requirements, but lower wages, primarily in the public sector. The Government also indicated that the State Programme to Ensure Equal Rights and Opportunities for Women and Men, 2013–16, included activities aimed at reducing the gender gap in wages between men and women. The Committee therefore requested the Government to intensify its efforts in reducing the gender pay gap and to provide information on the activities undertaken in the framework of the State Programme to Ensure Equal Rights and Opportunities for Women and Men, 2013–16, in this respect. The Committee notes the Government's indication in its report that, in 2016, the average monthly gender pay gap was 25.4 per cent and 21.6 per cent in the first quarter of 2017. It further notes, from the data provided by the Government, that the gender pay gap remains particularly high in certain sectors of the economy, for example, in sports, entertainment and recreation (35.8 per cent), postal and courier services (39.4 per cent) and financial and insurance services (39.2 per cent). The Government indicates that differences in wages can be explained by the higher proportion of men in better-paid management positions as well as in work with arduous and dangerous working conditions and in night work, where salaries are higher and women are prohibited to work under the law. With regard to the prohibition of hazardous work for women, the Committee refers to its detailed comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); as to the prohibition of certain types of employment for women with children, it refers to its detailed comments under the Workers with Family Responsibilities Convention, 1981 (No. 156). The Committee further notes that the Government has not provided information on the impact of the activities undertaken in the framework of the State Programme to Ensure Equal Rights and Opportunities for Women and Men, 2013–16. It notes however, the adoption of a new Programme on providing Equal Rights and Opportunities for Women and Men up to 2021. *Therefore, the Committee once again requests the Government to continue its efforts to reduce the gender pay gap, including through identifying and addressing its underlying causes, and to provide information on any activities undertaken under the auspices of implementing the State Programme to Ensure Equal Rights and Opportunities for Women and Men up to 2021, and*

the results achieved in this respect. The Government is also requested to continue to provide statistical data on the wages and salary levels of men and women, by sector of employment and occupation, and in the various grades and levels of the civil service, as well as by occupational group.

Equal remuneration for men and women for work of equal value. Legislation. For a number of years, the Committee has been commenting on section 17 of the Law on Ensuring Equal Rights and Equal Opportunities of Women and Men (2006) which requires the employer to ensure equal pay for men and women for work involving equal skills and working conditions, which is more restrictive than the principle of equal remuneration for men and women for work of equal value set out in the Convention. Moreover, by linking the right to equal remuneration for men and women to two specific factors of comparison (skills and working conditions), the Committee recalled that section 17 may have the effect of discouraging or even excluding objective job evaluation on the basis of a wider set of criteria, which are crucial in order to eliminate effectively the discriminatory undervaluation of jobs traditionally performed by women. The Committee notes that the Government's report is silent on this point. However, it recalls the ongoing labour law reform and notes the most recent version of the draft Labour Code, available on the Parliament's website and dated 24 July 2017. It notes that section 2(1) of the draft Labour Code provides that one of the main principles of legal regulation of labour relations is "ensuring the right to equal remuneration for work of equal value". It further notes that section 20(1) of the draft Labour Code sets out, as one of the main rights of employees "remuneration for work of equal value". *While it welcomes the introduction of the concept of equal remuneration for work of equal value in the draft Labour Code, the Committee requests the Government to indicate the measures taken to amend section 17 of the Law on Ensuring Equal Rights and Opportunities of Women and Men to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, and to indicate any progress made in this regard. It also requests the Government to provide information on the adoption of the draft Labour Code, and to provide a copy of the law once adopted. Noting that the Government's report is silent on the matter, the Committee once again requests the Government to provide information on the implementation and enforcement of the current section 17 of the Law on Ensuring Equal Rights and Equal Opportunities of Women and Men, including the number and outcome of any relevant cases brought before the competent authorities.*

Article 3. Objective job evaluation. In its previous comments, the Committee noted that it remained unclear whether the methods used to evaluate the work performed in the different jobs and occupations are appropriate in determining wage rates in a manner that is free from gender bias. The Committee notes the Government's indication that under section 8 of the Wage Act (1995), as amended in 2014, the conditions and levels of remuneration for employees of institutions and organizations financed by the State are determined by the Cabinet of Ministers. The Government further indicates that section 15 of the Remuneration Act provides that in the private sector, enterprises can determine the conditions and levels of remuneration for their workers independently but must comply with statutory provisions and collective agreements. The Committee notes however that the Remuneration Act does not indicate how the Cabinet of Ministers or private sector enterprises evaluate the work performed and whether the wage-fixing mechanisms use objective criteria free from gender bias. The Committee is bound to recall, once again, that while the Convention does not prescribe a specific method for measuring and comparing the relative value of different jobs, whatever methods are used, particular care must be taken to ensure that they are free from gender bias. The Committee refers the Government to paragraphs 695–703 of its General Survey on the fundamental Conventions, 2012, for further guidance on objective job evaluation. *In light of the persistent gender pay gap and the horizontal and vertical gender segregation of labour recognized by the Government, the Committee once again urges the Government to take specific measures to promote the use of objective job evaluation methods free from gender bias in the public and private sectors, with a view to ensuring the establishment of wages and salary scales in accordance with the principle of equal remuneration for men and women for work of equal value, and to provide information on any progress achieved in this respect. The Committee encourages the Government to seek ILO technical assistance in this regard.*

The Committee is raising other matters in a request addressed directly to the Government.

United Kingdom

Gibraltar

Equal Remuneration Convention, 1951 (No. 100)

Articles 1 and 2 of the Convention. Assessing and addressing the gender remuneration gap. The Committee notes, from the 2017 Employment Survey Report published by the Statistics Office, that the gender pay gap continued to decrease but still remains significant. Based on average monthly earnings for full-time employees, the gender pay gap decreased from 26 per cent in 2013 to 22.5 per cent in 2017, being higher in the public sector than in the private sector (28.9 per cent and 25.1 per cent respectively, excluding the Ministry of Defence). With respect to average weekly earnings for full-time employees, the gap decreased from 32 per cent in 2013 to 29.5 per cent in 2017. The Committee however notes that the percentage of women in the three lowest annual earning brackets (less than £10,000) is over double that of men and inversely the percentage of men in the three highest annual earning brackets (above £40,000) is almost double that of women. It further notes from the Employment Survey Report the persistent vertical and horizontal occupational

gender segregation, as women still represent 69 per cent of the administrative and secretarial workforce while they represent only 29 per cent of the managers and senior officials employed on a full-time basis, for whom the gender pay gap is particularly high (29.8 per cent). It notes that monthly earnings of men are higher than those of women in all occupational categories, except in the process, plant and machine operatives, which employed only 0.2 per cent of the total number of women at national level. It also notes that average monthly earnings of men are higher than those of women in almost all industrial sectors (with the exception of two sectors employing a very low number of women), the pay gap being particularly high in sectors where most women were employed, such as financial intermediation, where the gender pay gap was 45.3 per cent in 2017, and health and social work, where it was 33.3 per cent. The Committee notes that a working group to look at the gender pay gap was set up in March 2017 within the Ministry for Equality and that, as a result, the Government recently acknowledged the existence of a gender pay gap. The Committee notes that, in September and October 2018, a training session was organized with employers from the private sector on “Gender Diversity and Inclusion” in order to analyse and explore the effects of unconscious bias in the workplace and its impact on women, and a “Women’s Mentorship Programme” was launched by the Government to promote better representation of women in senior positions. *Taking into consideration the significant gender pay gap as well as the persistent vertical and horizontal occupational gender segregation, the Committee hopes that the Government will continue its efforts to take more proactive measures, including with employers’ and workers’ organizations, to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value. It requests the Government to provide information on the specific measures taken to address the gender remuneration gap, both in the public and private sectors, by identifying and addressing the underlying causes of earnings differentials and by promoting women’s access to a wider range of jobs with career prospects and higher pay, including in the framework of the Women’s Mentorship Programme and other activities undertaken to explore the impact of unconscious gender bias in the workplace. The Committee also requests the Government to continue to provide detailed statistics on the earnings of men and women and on the gender remuneration gap, in all sectors of the economy. Finally, it requests the Government to regularly evaluate the effectiveness of the measures taken to address the gender remuneration gap.*

Legislation. The Committee previously noted that section 31 of the Equal Opportunities Act, 2006, allows men and women to bring equal pay claims against their employers using comparators employed by the same employer or by any “associated employer” in Gibraltar. It also recalled that the application of the Convention’s principle allows for a much broader comparison to be made between jobs performed by men and women in different places or enterprises, or between different employers. The Committee notes the Government’s statement, in its report, that it is committed to considering any necessary reform of section 31 of the Equal Opportunities Act to this end. *Recalling that ensuring a broad scope of comparison is essential for the application of the principle of equal remuneration given the continued prevalence of occupational sex segregation in the country, the Committee requests the Government to provide updated information on any revision of section 31 of the Equal Opportunities Act initiated in order to ensure that the right to equal remuneration between men and women for work of equal value is not restricted to the same or associated employer. In the meantime, it again requests the Government to provide specific information regarding the application in practice of section 31 of the Act, including any administrative or judicial decisions relating to equal remuneration for men and women for work of equal value.*

Articles 2 and 3. Application of the principle in the public sector. The Committee notes the Government’s indication that no specific job evaluation was undertaken in the public sector with regard to the principle of the Convention. The Government reiterates that the public sector has specific salary scales and job descriptions which apply irrespective of gender and therefore apply the principle of equal remuneration for men and women for work of equal value. Noting that the highest gender pay gap was identified in the public sector (28.9 per cent in 2017), the Committee once again recalls that despite the existence of salary scales applicable to all public officials, without discrimination on the ground of sex, pay discrimination in the public service can arise from the criteria applied in classifying jobs and from an undervaluation of the tasks performed largely by women, or from inequalities in certain supplementary wage benefits (see 2012 General Survey on the fundamental Conventions, paragraphs 700–703). *Recalling the Government’s obligation to ensure the full application of the principle of equal remuneration for men and women for work of equal value to its own employees, the Committee requests the Government to provide information on the criteria used to determine the classification of jobs and the applicable salary scales in the public sector, and to indicate how it is ensured that the criteria used are free from gender bias and that men and women in the public sector have access to all additional payments on an equal footing. In light of the substantial gender pay gap identified in the public service, the Committee requests the Government to provide information on the distribution of men and women in the various occupations and positions in the public sector, to identify where wage gaps exist and to take the necessary steps to eliminate any wage gaps revealed. It also requests the Government to provide information on any measures taken to improve the access of women to higher ranking and better paid positions in the public sector, and the results achieved.*

The Committee is raising other matters in a request addressed directly to the Government.

Uruguay

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1989)

Articles 1 and 3 of the Convention. Wage gap and legislation. The Committee recalls that, in its previous comments, it referred once again to the lack of any definition in the national legislation of the terms “remuneration” or “work of equal value” and noted the persistent gender wage gap and the occupational segregation between men and women. The Committee emphasized that giving full legislative effect to the principle of equal remuneration for men and women for work of equal value is particularly important in order to ensure the application of the Convention and it therefore requested the Government to take specific measures to give full legislative expression to the principle of the Convention and to define the term “remuneration” in the legislation in order to reflect the definition in the Convention. It also requested the Government to take measures to reduce the gender wage gap, including by addressing the issue of occupational segregation between men and women and the promotion of women in better jobs in the context of the equal opportunities plans that are adopted. The Committee notes the Government’s indication in its report that the legislation lacks essential definitions, such as of the term “remuneration”, due to the fact that there is no systematic body of labour standards. Nevertheless, the Government indicates that the need has not been felt up to now for the existence of such definitions. The Committee also notes the Government’s reference to the study “Persistent inequalities: Labour market, skills and gender”, undertaken in 2014 by the United Nations Development Programme (UNDP), according to which, neither the greater labour market participation of women nor their higher skill levels have succeeded in reducing the wage gap. The study indicates that the factors which contribute to the wage gap between men and women workers include horizontal segregation in education, which has the effect of further strengthening the concentration of women workers in certain sectors and activities; the difficulties encountered by women in gaining access to higher level jobs; and care responsibilities, which result in women devoting fewer hours than men to paid work during the life cycle. The Committee notes that, according to the study, the greatest wage gap is found among employees at the tertiary level, where there is a significantly higher proportion of women than men (63.4 per cent). For example, among accountancy and financial auxiliaries, the wage gap is 30 per cent, and it is 20 per cent among professional doctors and similar personnel, and 32 per cent between specialists in social and human sciences. The study also notes that in the two primary occupations in which women are engaged, that is primary school and pre-school teaching, and office work, the wage gap is almost 13 per cent. The Committee notes the Government’s indication that, with a view to eliminating gender wage gaps, awareness-raising campaigns are continuing to be undertaken with a view to transforming current cultural attitudes. The development of a comprehensive system of care has also been promoted, in respect of which the Committee refers to its comments on the application of the Workers with Family Responsibilities Convention, 1981 (No. 156). The Committee also notes the National Strategy for Gender Equality 2030 which includes, among the various types of action envisaged by 2030: (i) promoting the application of the principle of equal remuneration for work of equal value; (ii) eliminating educational segregation and promoting the access of women to areas related to science; and (iii) reducing horizontal and vertical occupational segregation in the public and private sectors. The Committee also notes with *interest* that Act No. 19580 on gender-based violence against women, of 22 December 2017, by recognizing the “lower wages for work performed due to the fact of being a woman” as a form of labour violence against women (section 6), provides that the Ministry of Labour and Social Security and any other body or institution connected with labour and social security policies shall promote measures to guarantee the exercise of the “right to equal remuneration for work of equal value” without discrimination (section 23). However, the Act does not define the concept of “work of equal value” or of “remuneration”. The Committee recalls that the concept of “work of equal value” includes, but goes beyond equal remuneration for “equal”, “the same” or “similar” work, and also encompasses work that is of an entirely different nature which is nevertheless of equal value, and it emphasizes the importance of a clear legislative framework to ensure the application of the Convention in practice. *Under these conditions, recalling the importance of guaranteeing that men and women have a legal basis for asserting their right to equal remuneration in respect of their employers and the competent authorities, the Committee once again requests the Government to consider giving full legislative effect to the principle of the Convention and including in the legislation a definition of the term “remuneration”, in accordance with Article 1(a) of the Convention, and to provide information on any developments in this regard. The Committee also requests the Government to continue providing information on any measures adopted with a view to reducing the wage gap between men and women workers, including the measures adopted within the framework of the National Gender Equality Strategy 2030 and Act No. 19580 on gender-based violence against women, including any measure adopted with a view to addressing educational and occupational segregation between men and women, and the results achieved. Noting the Government’s indication that the greatest wage gap is found among employees at the tertiary level, the Committee requests the Government to provide information on the reasons why the wage gap is wider in higher level jobs.*

The Committee is raising other matters in a request addressed directly to the Government.

Uzbekistan

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1992)

The Committee notes the observations of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), received on 1 September 2017, on the Government's alleged failure to comply with the principle of the Convention. ***The Committee requests the Government to provide its comments thereon.***

Article 1 of the Convention. Legislative framework. The Committee recalls that for a number of years it has been referring to the need to amend the Labour Code of 21 December 1995, which prohibits discrimination on the basis of sex with regard to remuneration, but which does not fully reflect the principle of equal remuneration for men and women for work of equal value as set out in the Convention. It previously noted that the Government was taking steps to improve the draft law on "guarantees of equal rights and equal opportunities for women and men" aimed at preventing discrimination against women. The Committee notes from the Government's report that the Chamber of Commerce and Industry reviewed and proposed amendments to the draft Equal Rights and Opportunities (Men and Women) Act. However, it notes from the IUF's observations that although the draft law was first submitted to Parliament in 2004, it has not yet been adopted. The Committee further notes with ***regret*** that the Government's report once more provides no information on its plans to bring the Labour Code into conformity with the Convention. The Committee stresses again that the concept of "work of equal value" lies at the heart of the fundamental right of equal remuneration for men and women, and the promotion of equality. This concept permits a broad scope of comparison, including but going beyond equal remuneration for "equal work" or work performed under "equal conditions", and also encompasses work that is of an entirely different nature, but which is nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 673). ***Recalling that provisions that are narrower than the principle laid down in the Convention hinder progress in eradicating gender-based pay discrimination, the Committee urges the Government to take steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, ensuring that the provision encompasses not only equal work or work performed under equal conditions, but also work of an entirely different nature which is nevertheless of equal value, and to provide information on the steps taken in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1992)

The Committee notes the observations of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) received on 1 September 2017 alleging the Government's failure to comply with the Convention. ***The Committee requests the Government to provide its comments thereon.***

The Committee notes with ***regret*** that the Government's report once again contains no information in response to a number of its previous requests. The Committee wishes to stress that without the necessary information, it is not in a position to assess the effective implementation of the Convention, including any progress achieved since its ratification. ***The Committee urges the Government to ensure that the next report contains full information on the matters raised below.***

Article 1(1)(a) of the Convention. Discrimination based on sex. Sexual harassment. The Committee notes that the Government once again has provided no information in response to its request for information on awareness-raising activities and on measures taken to prohibit sexual harassment in the relevant legislation. The Committee recalls that sexual harassment is a serious manifestation of sex discrimination and a violation of human rights, and is to be addressed within the context of the Convention. Given the gravity and serious repercussions of sexual harassment, the Committee wishes to stress the importance of taking effective measures to prevent and prohibit sexual harassment in employment and occupation. Such steps should address both quid pro quo and hostile work environment sexual harassment. ***The Committee urges the Government to take steps to include provisions defining and prohibiting both quid pro quo and hostile environment sexual harassment in legislation. Recalling that it has been raising this issue since 2005, the Committee urges the Government to identify any practical steps taken to raise awareness and address the issue of sexual harassment in employment and occupation and any related collaboration with the workers' and employers' organizations.***

Workers with family responsibilities. For a number of years the Committee has been asking the Government to amend the sections of Chapter IV of the Labour Code which contain measures applying to persons with family responsibilities which are only available to women workers (sections 228, 228(1), 229, and 232), and to fathers only in exceptional circumstances for example, where the mother has died or is hospitalized long-term (section 238). The Committee notes that the Government has not provided any information in this regard. It further notes, from the Government's report under the Equal Remuneration Convention, 1951 (No. 100), enclosing an example of a collective agreement, that numerous provisions provide special protection and benefits to women with children or "people bringing up children without their mother". The Committee, therefore, once again emphasizes that when legislation reflects the assumption that the main responsibility for family care lies with women or excludes men from certain family-related rights and benefits, it reinforces stereotypes regarding the roles of women and men in the family and in society. The Committee considers that, in order to achieve the objective of the Convention, measures to assist workers with family

responsibilities should be available to men and women on an equal footing (see 2012 General Survey on the fundamental Conventions, paragraph 786). ***The Committee requests the Government to identify the steps taken, in consultation with employers' and workers' organizations, to amend the relevant parts of Chapter IV of the Labour Code in the light of the principle of equal treatment, to ensure that measures aimed at reconciling work and family are available to men and women with family responsibilities on an equal footing and to provide specific information in this regard.***

Discrimination based on religion. The Committee notes the IUF's observations according to which Muslim women who wear the hijab, face discrimination including in education, when applying for jobs and in employment. The IUF cites, as an example, cases where Muslim women were forced to quit their jobs, were banned from running their own business, intimidated and expelled from higher education. The Committee further notes, from the Report of the United Nations Special Rapporteur on freedom of religion or belief on his mission to Uzbekistan that a 2017–21 Action Strategy for the development of five priority areas was adopted, and that area V covers religious tolerance and inter-ethnic harmony (A/HRC/37/49/Add.2, paragraph 2). ***The Committee requests the Government to provide information on the specific measures taken to tackle discrimination on the grounds of religion in employment or occupations, including in the framework of the 2017–21 Action Strategy, and on the results achieved. Please also provide a copy of the 2017–21 Action Strategy.***

Article 5. Special measures of protection on the basis of sex. The Committee recalls that since 2005, it has been asking the Government to provide a copy of the list of jobs with harmful working conditions in which women are prohibited from working, referred to in section 225 of the Labour Code. The Committee notes with ***regret*** that the Government has not provided the list and merely states that distinctions in employment are not deemed discriminatory if they are determined by the characteristics of the job or by the State's special concern for persons in need of greater social protection. The Committee notes from the IUF's observations that it considers that the inclusion of women in the category of people requiring enhanced social protection leaves open the possibility of direct discrimination against women. The Committee recalls that protective measures for women may be broadly categorized into those aimed at protecting maternity in the strict sense, which come within the scope of *Article 5*, and those aimed at protecting women generally because of their sex or gender, based on stereotypical perceptions about their capabilities and appropriate role in society, which are contrary to the Convention and constitute obstacles to the recruitment and employment of women (see the 2012 General Survey on the fundamental Conventions, paragraphs 838–840). ***The Committee therefore urges the Government to provide a copy of the list of jobs with harmful working conditions in which women are prohibited from working referred to in section 225 of the Labour Code, in order to enable the Committee to assess whether this list of prohibited jobs constitutes a special measure falling under the scope of Article 5.***

The Committee is raising other matters in a request addressed directly to the Government.

Zambia

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1972)

Article 1 of the Convention. Equal remuneration for men and women for work of equal value. Legislation. The Committee previously noted that a definition of “equal pay for work of equal value” was included in the draft Employment Act (Amendment Bill) but drew the Government's attention to the fact that this definition was narrower than the concept set out in *Article 1(b)* of the Convention. The Committee takes note of the adoption of the Employment Amendment Act in 2015 but observes that it does not contain any provision in this regard. It notes the Government's indication, in its report, that a Labour Code is currently being drafted and would take into consideration the concerns previously expressed by the Committee. The Committee notes with ***interest*** that section 31(1)(e) of the Gender Equity and Equality Act, adopted on 23 December 2015, provides that a woman has, on an equal basis with a man, “the same right to equal remuneration, benefits and treatment in respect of work of equal value”. It notes that “work of equal value” is defined as “work that is equal in terms of the demands it makes with regard to matters such as skill, duty, physical and material effort, responsibility, conditions of work and remuneration”. It observes that the definition of the term “remuneration” corresponds to the definition provided by *Article 1(a)*. The Committee further notes that section 31(2)(e) provides that “an employer shall not discriminate against a woman when determining remuneration, benefits, retirement and social security” according to section 31(4)(c) and (d), and that “a person, public body or private body shall not fail to respect the principle of equal pay for equal work; or perpetuate disproportionate income differentials deriving from past discrimination”; a person who contravenes these provisions commits an offence and may be convicted with a fine (section 31(6)). Noting that section 31(2)(e) refers to equal pay for “equal work”, the Committee draws the Government's attention to the fact that the concept of “work of equal value”, which lies at the heart of the fundamental right of equal remuneration for men and women for work of equal value, goes beyond equal remuneration for “equal”, “the same” or “similar” work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 673). ***The Committee requests the Government to provide information on the actual methods and criteria used to evaluate the “demands” made by a specific job, in order to ensure that the definition of the expression “work of equal value” provided for in section 31 of the Gender Equity and Equality Act, 2015, permits a broad scope of comparison in practice, including but going beyond equal remuneration for equal work, as required by the Convention. It requests the Government to provide information on the measures***

taken to raise awareness among workers, employers and their respective organizations of the new equal remuneration provisions and the existence of penalties for non-observance. The Committee requests the Government to provide information on the application and enforcement of section 31 of the Gender Equity and Equality Act in practice, particularly the number of infringements reported to labour inspectors, courts and the Gender Equity and Equality Commission and the penalties imposed. In light of the ongoing legislative developments, the Committee requests the Government to provide information on the status of the elaboration of the draft Labour Code and hopes that it will fully reflect the principle of the Convention.

Earnings differentials between men and women. The Committee previously noted the persistent vertical and horizontal segregation of men and women in certain sectors and occupations, as well as the significant gender pay gap. It notes from the 2017 labour market indicators available from the Central Statistical Office that 33.1 per cent of the working population is in the formal sector and that 24.8 per cent of the population is formally employed, only 26.3 per cent of whom are women. It notes that, in 2018, the Central Statistical Office published a report *Gender statistics on women's representation in local government* indicating that Zambia is one of the lowest ranked countries in the Southern African Development Community (SADC) region in terms of women's participation at local government level (9 per cent as of 2016), and highlighted the need to strengthen the collection and presentation of quality gender statistics in order to ensure that adequate information is available and accessible to undertake gender analysis for more targeted interventions and the effective participation of women at all levels. While noting the absence of available information on the earnings of men and women in the different sectors and occupations, the Committee notes with **concern** the Government's statement that there is no gender pay gap in the country but only male- or female-dominated industries. It notes that the National Gender Equality Policy, as revised in 2014, highlights that women are concentrated in the lowest-paying sectors and non-technical jobs as a result of their lower education levels, and acknowledges that discrimination against women in the country is embodied in traditional rules and practices resulting in lasting constraints on women's socio-economic empowerment and progress. Noting that the elimination of gender bias has been identified as an objective of the Gender Equity and Equality Act, 2015, the Committee draws the Government's attention to the fact that, due to historical attitudes towards the role of women in society, along with stereotypical assumptions regarding women's aspirations, preferences and capabilities and their suitability for certain jobs, certain jobs are held predominantly or exclusively by women (such as in caring professions) and others by men (such as in construction). Often "female jobs" are undervalued in comparison with work of equal value performed by men when determining wage rates. Comparing the relative value of jobs in occupations which may involve different types of skills, responsibilities or working conditions, but which are nevertheless of equal value overall, is essential in order to eliminate pay discrimination resulting from the failure to recognize the value of work performed by women and men free from gender bias. The Committee recalls that the principle has been applied to compare the remuneration received by men and women engaged in different occupations, such as wardens in sheltered accommodation for the elderly (predominantly women) and security guards in office premises (predominantly men); or school meal supervisors (predominantly women) and garden and park supervisors (predominantly men) (see 2012 General Survey on the fundamental Conventions, paragraphs 673 and 675). ***The Committee requests the Government to strengthen its efforts to take more proactive measures, including with employers' and workers' organizations, to raise awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value. It requests the Government to provide information on the specific measures taken to address the gender remuneration gap by identifying and addressing the underlying causes of pay differentials such as vertical and horizontal job segregation and gender stereotypes, covering both the formal and informal economy, and by promoting women's access to a wider range of jobs with career prospects and higher pay, including in the context of the revised National Gender Equality Policy and the Gender Equity and Equality Act, 2015. Recalling that collecting, analysing and disseminating information is important in identifying and addressing inequality in remuneration, it requests the Government to provide updated statistical information on the earnings of men and women in all the sectors and occupations of the economy. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1979)

Article 1 of the Convention. Definition of discrimination. The Committee previously noted that the definition of discrimination in the draft Employment Act (Amendment Bill) does not appear to include the grounds of national extraction and colour, and that the ground of "social status" may have a narrower meaning than the ground of "social origin" set out in the Convention. The Committee notes that, as a result of the adoption of the Employment Amendment Act in 2015, the new section 36(3) of the Employment Act provides that "race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion or affiliation, ethnicity, tribal affiliation or social status of the employee" cannot constitute a valid reason for termination. It further notes the adoption of the Constitution of Zambia (Amendment) Act, 2016, which provides that equality and non-discrimination are part of the national values and principles and defines "discrimination" as meaning "directly or indirectly treating a person differently on the basis of that person's birth, race, sex, origin, colour, age, disability, religion, conscience, belief, culture, language, tribe, pregnancy, health, or marital, ethnic, social or economic status" (sections 8 and 266). While welcoming the inclusion of the ground of

“colour” in both new laws, the Committee notes that despite its previous recommendations the new provisions do not refer to the grounds of “national extraction” and “social origin” set out in *Article 1(1)(a)* of the Convention. The Committee further notes that, while the Government previously indicated that the new Employment Act would contain a comprehensive definition of discrimination, the Act only refers to discrimination in case of termination of employment. The Committee wishes to emphasize that the principle of equality of opportunity and treatment should apply to all aspects of employment and occupation which include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment, as provided for in *Article 1(3)* of the Convention. It recalls that clear and comprehensive definitions of what constitutes discrimination in employment and occupation are instrumental in identifying and addressing the many manifestations in which it may occur (see 2012 General Survey on the fundamental Conventions, paragraph 743). ***The Committee requests the Government to provide updated information on the practical application of section 36(3) of the Employment Act, including a copy of any court decisions on cases where dismissal was based on prohibited grounds, more particularly on the ground of “social status” in order to enable the Committee to assess its meaning in practice, and the remedies provided. In light of the legislative developments referred to in its comments under the Equal Remuneration Convention, 1951 (No. 100), concerning the current elaboration of a Labour Code, the Committee requests the Government to strengthen its efforts to give full legislative expression to the principle of the Convention by defining and prohibiting direct and indirect discrimination in all aspects of employment and occupation with respect to all the grounds set out in Article 1(1)(a) of the Convention and to provide information on any progress made in this regard.***

Article 1(1)(a). Discrimination based on sex. Sexual Harassment. The Committee previously noted that sexual harassment was only addressed through the Penal Code and that amendment of section 137A(1) was planned to incorporate provisions of the Anti-Gender Based Violence Act, 2011, to extend the offence of sexual harassment against children in the workplace to an offence of sexual harassment “against a person”, and the setting up of a Fast-Track Court to deal with the delays in dispensing of cases of gender-based violence in the court system. The Committee notes the Government’s indication that the revision process of section 137A(1) of the Penal Code is still ongoing. The Committee notes with *interest* the adoption of the Gender Equity and Equality Act, on 23 December 2015, which prohibits both quid pro quo and hostile working environment sexual harassment and provides that the Gender Equity and Equality Commission has the power to order any remedies or compensation (section 42(5)). It further notes that section 40 of the Act provides that the Government shall develop and implement appropriate policy and procedures to entitle victims of sexual harassment to have access to appropriate disciplinary and grievance procedures and that employers have an obligation to implement and communicate to all persons, including employees, on such procedures. The Committee however notes that, in the framework of the Universal Periodic Review, the United Nations country team recently stated that, while perpetrators of sexual harassment in the private and public sectors had been prosecuted, employers in such cases had not been held accountable for failure to protect women employees (A/HRC/WG.6/28/ZMB/2, 28 August 2017, paragraph 36). ***The Committee requests the Government to provide information on the practical application of sections 39 and 40 of the Gender Equity and Equality Act, 2015, including on appropriate policies and awareness-raising measures implemented to address all forms of sexual harassment in employment and occupation, as well as to provide information on the number of complaints filed and the remedies provided. The Committee once again requests the Government to supply a copy of the relevant clauses of the Public Service Disciplinary Code defining sexual harassment and discrimination.***

The Committee is raising other matters in a request addressed directly to the Government.

Zimbabwe

Equal Remuneration Convention, 1951 (No. 100) (ratification: 1989)

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) of 31 August 2017, as well as the Government’s reply received on 2 November 2017.

Article 1 of the Convention. Work of equal value. The Committee has been referring for a number of years to section 5(2)(a) of the Labour Act which provides for equal remuneration between men and women for work of equal value but defines “work of equal value” as meaning “work that involves similar or substantially similar skills, duties, responsibilities and conditions”, which could unduly restrict the scope of comparison of jobs performed by men and women. The Committee notes the Government’s indication, in its report, that an agreement was reached with the social partners to amend the definition of “work of equal value” and that a draft bill amending the Labour Act is being elaborated, inter alia, to ensure that “work of equal value” has a broader scope as provided for in the Convention. While recalling its previous comments on article 65(6) of the Constitution, which only provides for equal remuneration for “similar work” and thus did not fully reflect the concept of “work of equal value”, the Committee notes the ZCTU’s statement that the draft bill provides that “equal remuneration for men and women workers for work of equal value refers to the rate of remuneration established without basing on gender” which in ZCTU’s view does not address the concerns previously raised by the Committee. The Committee notes that the Government encourages the ZCTU to bring this issue before the Tripartite Negotiating Forum (TNF) as the draft bill will take into consideration all the concerns expressed by the tripartite partners. While noting that the provision in the draft bill does not seem to define what should be considered

as “work of equal value”, the Committee again draws the Government’s attention to the fact that the concept of “work of equal value” as provided for under the Convention is fundamental to tackling occupational sex segregation in the labour market, as it permits a broad scope of comparison, including, but going beyond equal remuneration for “equal”, “the same”, or “similar” work, but also encompassing work of an entirely different nature, which is nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraphs 672–675). ***In light of the ongoing legislative developments, the Committee trusts that the Government will take the opportunity of the amendment of the Labour Act to effectively consider the concerns raised by the Committee, for a number of years, in order to ensure that the principle of equal remuneration for men and women for work of equal value will be fully reflected in the national legislation, and that the final text of the Labour Act will allow for the comparison not only of work that involves similar qualifications and skills, effort, responsibilities and conditions of work, but also of work of an entirely different nature which is nevertheless of equal value. The Committee requests the Government to provide information on any progress made in this regard.***

Article 2. Measures to address the gender pay gap. The Committee previously noted the continuing vertical and horizontal occupational segregation, as well as the persistent gender pay gap with women being concentrated in low-paying jobs, mostly in the agriculture and private domestic sectors. Referring to its previous comments on the National Gender Policy (2013–17) which provides for a strategy to advocate equity in formal employment and remuneration, and mechanisms that increase opportunities for women’s employment, the Committee notes the Government’s general indication that the Ministry of Public Service, Labour and Social Welfare is working towards ensuring equal opportunities for men and women in the labour market. The Committee however notes the ZCTU’s statement that no tangible progress has been made with regard to the gender pay gap, and that comprehensive measures must be taken by the Government to address the real causes of the gender pay gap. It notes the ZCTU’s indication that, according to the data available in 2016 from the Zimbabwe National Statistics Agency (Zimstat), only 14 per cent of economically active women were in paid employment (against 30 per cent of men), as the majority of women are unemployed, underemployed or employed in the informal economy. The Committee notes that, according to the last Labour Force Survey, published in March 2015 by the Zimstat, the share of informal employment of total employment increased from 84.2 per cent in 2011 to 94.5 per cent in 2014, and it was estimated that women still accounted for 52.4 per cent within the informal economy. It also notes that the survey on the “Situational analysis of women in the informal economy in Zimbabwe” published by the ILO in 2017, highlighted that women employed in the informal economy receive only low and irregular incomes as it was estimated that 61.3 per cent of women in the informal economy were earning below US\$100 per month (pages 11–12). ***The Committee requests the Government to provide detailed information on any measures taken in the context of the National Gender Policy (2013–17) or otherwise to advocate equity in remuneration and address the structural causes of the gender pay gap, including occupational gender segregation of the labour market and the low rates of remuneration for jobs predominantly occupied by women. Noting that the National Gender Policy 2013–17 provides for a monitoring and evaluation framework, the Committee requests the Government to forward a copy of any report assessing the impact of the policy as well as to provide information on any follow-up measures envisaged.***

The Committee is raising other matters in a request addressed directly to the Government.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1999)

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) of 31 August 2017, as well as the Government’s reply received on 2 November 2017.

Article 1(1)(a) and (b) of the Convention. Grounds of discrimination. Legislation. The Committee previously noted that while the Labour Act does not prohibit discrimination on the grounds of national extraction and social origin, which are listed in *Article 1(1)(a)* of the Convention, article 56 of the Constitution of 2013 includes “social origin” but refers only to the grounds of “nationality” and “place of birth” without expressly referring to the ground of “national extraction”. The Committee notes the Government’s indication, in its report, that the grounds of “place of birth” and “ethnic origin” listed in article 56 of the Constitution cover “national extraction”, and that section 5(1) of the Labour Act will be amended to incorporate all the grounds enumerated in the Constitution. The Committee notes the ZCTU’s indication that it hopes that in its instruction to the Attorney General the Government will ensure that “national extraction” and “social origin” are included in the bill amending the Labour Act, as agreed by the social partners in the framework of the Tripartite Negotiating Forum (TNF). ***In light of the review of the Labour Act, the Committee trusts that the Government will take all the necessary steps to ensure that the Labour Act will prohibit direct and indirect discrimination on at least all the grounds enumerated in Article 1(1)(a) of the Convention, including national extraction and social origin, for all workers and with respect to all aspects of employment, and requests the Government to provide information on any progress made in this regard. It further requests the Government to provide information on the interpretation made by the labour inspectorate of the expressions “nationality”, “ethnic origin” and “place of birth” listed in article 56 of the Constitution and on their application in practice.***

Articles 2 and 3. National policy to promote equality of opportunity and treatment between men and women. The Committee takes note of the revised version of the National Gender Policy for 2013–17, forwarded by the Government, which includes new priority areas, namely “gender and disability”, and “gender, culture and religion”. It notes however

that no change was introduced in the previously planned strategies to promote equality and equity in access to economic opportunities for men and women, and to ensure access in training opportunities for men and women with a view to improving their equal participation in the workplace, the labour market and in public administration. The Committee notes the Government's general statement that there has been progress in relation to the promotion of equality of opportunity and treatment between men and women in the context of the implementation of the National Gender Policy. The Government adds that through the revised National Gender Policy, a monitoring and evaluation framework dealing specifically with gender equality and women's empowerment is being finalized to enable the national gender machinery to monitor and assess the implementation of national, regional and international commitments taken in this area. The Committee notes, however, that, in the ZCTU's view, no improvement has been made with respect to gender equality in employment and occupation. The Committee notes that, according to the last Zimbabwe Demographic Health Survey (ZDHS) – a sample survey conducted in 2015 by the Government – the employment rate of women increased from 37 per cent in 2010–11 to 41 per cent in 2015 (against 65 per cent for men), with women being mostly concentrated in the sales and services sector (49 per cent against 36 per cent in 2010–11), followed by the agriculture sector (18 per cent against 21 per cent in 2010–11). Referring to its comments on the Equal Remuneration Convention, 1951 (No. 100), the Committee notes, however, the ZCTU's indication that, according to the data available in 2016 from the Zimbabwe National Statistics Agency (ZIMSTAT), only 14 per cent of economically active women were in paid employment (against 30 per cent of men), since the majority of women are unemployed, underemployed or employed in the informal economy. *The Committee requests the Government to provide information on the specific steps taken as a result of the implementation of the National Gender Policy concerning the areas of employment, education and training, as well as on any review undertaken to assess the implementation of the Policy, including as a result of the monitoring and evaluation framework dealing specifically with gender equality and women's empowerment. It further requests the Government to provide information on any positive measures adopted to address past gender discrimination and enhance women's economic empowerment and access to decision-making positions, and their impact on improving equality of opportunity and equal treatment between men and women in employment and occupation. The Committee requests the Government to provide updated statistical information on the participation of men and women in education, training, employment and occupation, disaggregated by occupational categories and positions.*

Gender Commission. Referring to its previous comments on article 245 of the Constitution of 2013, which provides for the establishment of the Gender Commission, the Committee notes with *interest* the adoption of the Gender Commission Act (Chapter 10:31), enacted in 2016, which operationalizes the Commission and provides that it can, inter alia, receive and handle public complaints on gender-based discrimination and recommend appropriate redress. It can also investigate any systemic barrier to gender equality and report to Parliament on the nature, extent and consequences of such barrier, identifying any legislative, administrative or other practical reform that should be taken to remedy the situation (sections 4–7). The Committee further notes that the Commission is required to organize a Gender Forum to discuss any issue related to its functions annually (section 8). The Committee notes that in 2017 capacity-building activities on international labour standards and gender equality were undertaken by the ILO within the Gender Commission in order to enable it to better promote gender equality and non-discrimination within the country. It notes the Government's indication that as a result the Commission held various awareness-raising and capacity-building activities, both at national and community levels, on gender equality and women's economic empowerment, particularly at the decision-making level. It further notes that the Commission has developed an investigations and complaints handling manual to guide its investigative functions. The Committee notes, however, that while welcoming the establishment of the Gender Commission, the ZCTU highlights the absence of any effective activities by the Commission in the fields of employment and occupation. *Noting the Government's statement that no case has yet been handled by the Gender Commission, the Committee hopes that the Government will take the necessary steps to fully operationalize the Gender Commission. It also requests the Government to provide information on the number, nature and outcome of any cases of discrimination in employment and occupation addressed by the Commission, and to provide a copy of the investigations and complaints handling manual. It further requests the Government to provide information on any systemic barriers to gender equality investigated and reported to Parliament, particularly in the fields of employment and occupation. It requests the Government to continue to provide information on the activities of the Gender Commission, including on the specific awareness-raising activities undertaken, with regard to discrimination in employment and occupation, among public officials, employers, workers, and their respective organizations, including in the framework of the annual Gender Forums or otherwise.*

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 100** (Albania, Angola, Antigua and Barbuda, Argentina, Barbados, Belize, Chad, Chile, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominica, Fiji, France: French Polynesia, Gambia, Georgia, Germany, Guinea, Guinea-Bissau, Haiti, Iraq, Ireland, Kiribati, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Libya, Lithuania, Malaysia, Mauritania, Mozambique, Namibia, Nicaragua, Papua New Guinea, Paraguay, Peru, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sierra Leone, Singapore, South Sudan, Sri Lanka,

Trinidad and Tobago, Uganda, Ukraine, United Kingdom: Gibraltar, Uruguay, Uzbekistan, Zambia, Zimbabwe);
Convention No. 111 (*Afghanistan, Albania, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Barbados, Belize, Burundi, Chad, Chile, Comoros, Congo, Democratic Republic of the Congo, Djibouti, Dominica, Fiji, France: French Polynesia, France: New Caledonia, Gambia, Germany, Ghana, Guinea, Guinea-Bissau, Haiti, Iraq, Ireland, Israel, Jordan, Republic of Korea, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Libya, Lithuania, Morocco, Mozambique, Namibia, Papua New Guinea, Paraguay, Peru, Qatar, Romania, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sierra Leone, South Sudan, Spain, Sri Lanka, Tajikistan, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Uganda, Ukraine, Uruguay, Uzbekistan, Zambia, Zimbabwe);*
Convention No. 156 (*Argentina, Belize, Plurinational State of Bolivia, Bulgaria, Finland, France, Guinea, Republic of Korea, Lithuania, Paraguay, Peru, Russian Federation, San Marino, Slovakia, Ukraine, Uruguay).*

Tripartite consultation

Antigua and Barbuda

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2002)

Article 5(1) of the Convention. Effective tripartite consultations. The Government indicates in its report that the National Labour Board is currently engaged in the revision of the Labour Code. The Committee notes that the Government envisages establishing a subcommittee composed of members of the National Labour Board, along with representatives of workers and employers, to review international labour standards, engage the public in consultations when necessary and to make recommendations to the Minister on actions to be taken. The Committee notes, however, that once again the Government's report does not contain information with regard to tripartite consultations on the matters related to international labour standards covered by *Article 5(1)* of the Convention. **Recalling its comments since 2008 concerning the activities of the National Labour Board, and noting that section B7 of the Labour Code, which establishes the Board's procedures, does not include the matters set out in Article 5(1) of the Convention, the Committee once again requests the Government to provide detailed information on the activities of the National Labour Board on matters related to international labour standards covered by the Convention. It further requests the Government to identify the body or bodies mandated to carry out the tripartite consultations required to give effect to the Convention. The Committee reiterates its request that the Government provide precise and detailed information on the content and outcome of the tripartite consultations held on all matters concerning international labour standards covered by Article 5(1)(a)–(e) of the Convention, especially those relating to the questionnaires on Conference agenda items (Article 5(1)(a)); reports to be presented on the application of ratified Conventions (Article 5(1)(d)); and proposals for the denunciation of ratified Conventions (Article 5(1)(e)).**

Article 5(1)(b). Submission to Parliament. The Government reiterates information provided in April 2014, indicating that the 20 instruments adopted by the Conference from its 83rd to its 101st Sessions (1996–2012) were resubmitted to Parliament on 11 March 2014. It adds that a request would be made to the Minister by 15 November 2017 via the Labour Commissioner and Permanent Secretary concerning submission of the instruments to Parliament. **The Committee refers to its longstanding observations on the obligation to submit and once again requests the Government to indicate whether effective consultations leading to conclusions or modifications were held with respect to the proposals made to the Parliament of Antigua and Barbuda in connection with the submission of the above-mentioned instruments, including information regarding the date(s) on which the instruments were submitted to Parliament. In addition, the Committee requests the Government to provide information on the content, agenda, discussions and resolutions and on the outcome of the tripartite consultations held in relation to the submission of instruments adopted by the Conference as of 2014: the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, as well as the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session.**

Article 5(1)(c). Examination of unratified Conventions and Recommendations. The Government reports that the unratified conventions noted in its report were submitted to the National Labour Board on 11 November 2017 for re-examination with the social partners. **The Committee requests the Government to provide updated information on the outcome of the re-examination of unratified Conventions, in particular: (i) the Labour Inspection (Agriculture) Convention, 1969 (No. 129), which is deemed a governance Convention; (ii) the Holidays with Pay Convention (Revised), 1970 (No. 132), (which revises the Weekly Rest (Industry) Convention, 1921 (No. 14); the Holidays with Pay (Agriculture) Convention, 1952 (No. 101), to which Antigua and Barbuda is a State party); and (iii) the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), (which revises the Seafarers' Identity Documents Convention, 1958 (No. 108), that has also been ratified by Antigua and Barbuda).**

Botswana

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)

Article 5 (1) of the Convention. Effective tripartite consultations. In response to the Committee's previous comments, the Government indicates that consultations have been held with the Botswana Federation of Trade Unions (BFTU), the Botswana Federation of Public Service Employees Union (BOFEPUSU) and Business Botswana (BB) on matters to be discussed by the International Labour Conference (ILC). It adds that the Minister of Employment, Labour Productivity and Skills Development is responsible for submitting Conventions and Recommendations to the National Assembly for discussion regarding their possible ratification. The Government specifies that reports submitted under article 22 of the ILO Constitution are prepared in consultation with the social partners. The Committee notes the Government's indication that, on 24 May 2018, the Government and the social partners discussed the agenda of the 107th

Session of the ILC. The Government also indicates that an ILO expert conducted a gap analysis in relation to the possible ratification of the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), which were submitted to the competent authority for consideration. The Committee notes that the Government does not provide information on effective tripartite consultations held on the submission of instruments adopted by the Conference (*Article 5(1)(b)*) or the possible denunciation of ratified Conventions (*Article 5(1)(e)*). The Committee also welcomes the information provided in the Government's report concerning the jurisprudence of the Court of Appeals in respect of the application of the Convention. In particular, it notes the Court's ruling, which invalidated Statutory Instrument No. 57 of 2011 due to lack of prior consultation with the social partners. ***The Committee reiterates its request that the Government provide updated detailed information concerning the content and outcome of effective tripartite discussions held within the Labour Advisory Board and the High Level Consultative Committee (Sub-HLCC), indicating the frequency of such consultations, on all matters related to international labour standards within the scope of Article 5(1) of the Convention, particularly in relation to the possible ratification of Conventions Nos 81 and 129. In addition, the Committee requests the Government to continue to provide information on jurisprudence relevant to the application of the provisions of the Convention.***

Chad

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1998)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Technical assistance. In its conclusions of June 2013, the Conference Committee invited the Government to take all appropriate measures to ensure the effective operation of the procedures required by this governance Convention. The Government states in its report, received in November 2014, that it always advocates social dialogue with the social partners. The Committee notes that the Government submitted reports on ratified Conventions to the social partners for any possible observations, as agreed at a workshop held in Dakar in July 2014 on constitutional obligations. The Committee was also informed about a capacity-building workshop on international labour standards and social dialogue, which was held in Ndjamen in September 2014. With ILO assistance, and in the framework of the follow-up requested by the Conference Committee pursuant to a tripartite discussion held in June 2013, the participants put forward various proposals to strengthen the consultation procedures required by the Convention, including the convening of a tripartite workshop with the departments and units to address the information required in the Committee of Expert's comments, and a tripartite workshop for the validation of reports before they are submitted to the ILO. ***The Committee invites the Government to submit further information on the progress made as a result of the assistance received from the ILO on matters related to tripartite consultations and social dialogue.***

Articles 2 and 5 of the Convention. Consultation mechanisms and effective tripartite consultations. The Government states that in 2013, the Higher Committee for Labour and Social Security convened with a view to incorporating the technical comments in the draft Labour Code. The Committee also notes that this Higher Committee was inactive in 2014. ***The Committee invites the Government to provide detailed information on the consultations held on all the items covered by Article 5(1) of the Convention.***

Article 4(2). Training. The Government confirms that training for participants in consultative procedures is necessary, but that more often than not there is a problem of funding. The Committee notes the possibility of the Government intervening directly or through third-party development partners to make training possible. ***The Committee invites the Government to describe any arrangements made for the financing of any necessary training of participants on the consultative procedures.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Côte d'Ivoire

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1987)

Article 5(1) of the Convention. Effective tripartite consultations. The Government, in reply to the Committee's previous comments, indicates that a draft Order on the creation of a tripartite advisory committee on international labour standards is being examined by the tripartite constituents, with a view to its adoption and the appointment of its members. It adds that meetings are always organized by the Ministry of Labour to examine the matters relating to international labour standards covered by *Article 5* of the Convention, as well as any issues relating to labour in particular and to society in general. For example, the Government refers to the significant involvement of trade union organizations in Labour Day celebrations and the regular convening of the Labour Advisory Committee. It indicates that as soon as the tripartite advisory committee on international labour standards has been established, which is scheduled for 2018, the instruments to be submitted to the competent authority will be presented to the committee before being transmitted to the Government and then to the National Assembly. The Government indicates that it may avail itself of ILO technical support to ensure that the committee is operational. The Committee notes that the social partners are contacted by official letters so that they may comment on the Committee's comments and questionnaires, as well as on the draft final report. The Government nevertheless indicates that these letters are not always followed by a response. In its General Survey on tripartite consultation international labour standards, 2000, paragraph 71, the Committee notes that under the terms of *paragraph 2(3)* of the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation,

1976 (No. 152), consultations through written communications should be undertaken only “where those involved in the consultative procedures are agreed that such communications are appropriate and sufficient”. *In this regard, the Committee requests the Government to indicate whether the written consultative procedure was previously agreed with the social partners. In light of the Government’s stated intention to avail itself of the technical assistance of the Office to ensure that the committee is operational, the Committee hopes that such assistance will be provided in the near future. The Committee expresses the firm hope that the abovementioned draft Order will be adopted as soon as possible and requests the Government to keep it informed of any developments in this regard. It therefore once again requests the Government to provide specific information on the content, frequency and outcome of the tripartite consultations held on all of the matters relating to international labour standards covered by the Convention, including questionnaires concerning items on the agenda of the Conference (Article 5(1)(a)), the proposals to be made in connection with the submission of instruments adopted by the Conference to the National Assembly (Article 5(1)(b)), the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given (Article 5(1)(c)), reports to be made on the application of ratified Conventions (Article 5(1)(d)) and proposals for the denunciation of ratified Conventions (Article 5(1)(e)). The Committee also requests the Government to provide information on the outcome of the meetings organized by the Ministry of Labour on the matters relating to international labour standards.*

Democratic Republic of the Congo

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2001)

The Committee notes with *concern* that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Effective tripartite consultations. The Government indicates that the trade union and employers’ elections held between October 2008 and July 2009 enabled 12 occupational organizations of workers to be identified as being the most representative, with terms of office lasting until the next elections, scheduled for December 2013. The most representative occupational organizations of employers are determined on the basis of the number of enterprises affiliated. The Government also indicates that the Ministry of Employment, Labour and Social Welfare convenes sittings of the National Council on Labour (CNT) by an order that it issues to the social partners represented in the CNT, requesting them to submit the names of the titular and alternate representatives of their respective organizations (*Article 3 of the Convention*). The Committee notes that the Government’s report contains no further information on the operation of the consultation procedures required by the Convention. *The Committee refers the Government to its previous observation, in which it points to a serious failure of the obligation to submit the instruments adopted by the Conference, laid down in article 19(5) and (6) of the ILO Constitution. It requests the Government to provide information on the consultations held with the social partners on the proposals made to Parliament upon the submission of instruments adopted by the Conference (Article 5(1)(b) of the Convention). It further requests the Government to provide detailed information on the content of the consultations and the recommendations made by the social partners on each of the matters listed in Article 5(1) of the Convention.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

El Salvador

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2018 concerning the application of the Convention, in which the Conference Committee noted with concern the dysfunctional operation of social dialogue in the country and the non-compliance with the Convention. The Conference Committee therefore called upon the Government to: (i) refrain from interfering with the constitution of employers’ organizations and to facilitate, in accordance with national law, the proper representation of legitimate employers’ organizations by issuing appropriate credentials; (ii) develop, in consultation with the social partners, clear, objective, predictable and legally binding rules for the reactivation and full functioning of the Higher Labour Council (CST); (iii) reactivate, without delay, the CST, through the most representative organizations of workers and employers and through social dialogue in order to ensure its full functioning; (iv) appoint without delay representatives of the most representative employers’ organizations in the CST where such appointments are still pending; and (v) avail itself of ILO technical assistance. It also recommended that the Government submit a detailed report for examination at the next session of the Committee of Experts.

The Committee also notes the observations of the National Business Association (ANEP) and the International Organisation of Employers (IOE), received on 11 September 2018, alleging non-compliance with the Convention by the Government.

Articles 2 and 3(1) of the Convention. Adequate procedures. Election of the representatives of the social partners to the CST. In reply to its previous comments, the Committee notes that the Government's report refers to the intervention of a Government representative at the 107th Session of the Conference Committee in June 2018. The Government representative expressed her view that the case had been recognized by the Committee of Experts as a case of progress as a result of the actions taken by the Government to reactivate the CST. With regard to the allegations of Government interference in the appointment of workers' representatives to the CST and the National Minimum Wage Council, made by the ANEP, the Government representative denied them and referred to acts of interference by the ANEP, stating that the ANEP should not interfere in the appointment of worker members. The Government representative added that other tripartite bodies in which the ANEP participated on a permanent basis and without interference operated normally. In this regard, the Government representative referred to various measures adopted on a tripartite basis in the National Minimum Wage Council, the Housing Social Fund (SFV) and the Salvadoran Vocational Training Institute (INSAFORP).

The Committee also notes the observations of the IOE and the ANEP indicating that the Government is continuing to fail to engage in genuine dialogue and is not holding tripartite consultations, thereby failing to comply with the recommendations and resolutions issued by the ILO's supervisory bodies. They maintain that, since the failed attempt to convene the CST in July 2015, the Government has not taken any measures for the reactivation of the CST, nor have legitimate representatives of the social partners on the CST been elected freely and independently and without Government interference. With reference to the Government's indications that the ANEP refused to participate in the session of the CST held on 6 July 2017, the employers' organizations allege that the convening of the meeting was unlawful and that, in contrast with the provisions of section 3 of the Rules of the CST, the President of the CST (the Minister of Labour) convened the session unilaterally, without the agreement of the Vice-President nominated by the workers or the Vice-President nominated by the employers. With reference to the Government's claim that the process of appointing workers' representatives in the CST was undertaken publicly with the representatives of workers and employers, the employers' organizations indicate that the election was undertaken directly by the Government based on election criteria that even the workers' organizations indicated that they were not aware of during the direct contacts mission which visited the country in July 2017. The Committee also notes the allegation by the employers' organizations that no sessions of the CST were held between December 2016 and July 2017, but that it was in practice the Higher National Minimum Wage Council which held its sessions during that period. In that regard, they emphasize that the election of the representatives to the Higher National Minimum Wage Council was carried out based on rules issued by the Minister of Labour who, under the terms of the legislation in El Salvador, is not empowered to issue such instructions. The employers' organizations indicate that they have appealed against those rules to the Supreme Court of Justice calling for them to be set aside. They also refer to the Government's claim that the various tripartite bodies in the country are fully operational. In this regard, they affirm that they are in full operation, but only due to the fact that it was the Government itself, on the basis of the legal reforms adopted in 19 of the bodies in August 2012, which appointed the employers' representatives to the Executive Boards of the bodies. These reforms were declared unconstitutional by the Supreme Court of Justice in November 2016. In particular, they refer to interference by the Government in, among other bodies, the General Electricity and Telecommunications Supervisory Body (SIGET), the regulatory body for electricity and telecommunications in the country. They allege that the Government interfered in the nomination by employers' organizations of a titular director and a substitute director in the SIGET through the creation over a short period of time of 60 fictitious employers' associations which participated in the elections. They indicate that these facts have been denounced to the Chamber of the Constitutional Court, which has ordered precautionary measures, and the Prosecutor-General of the Republic for the corresponding criminal investigations. The Committee further notes the indication by the employers' organizations of other cases which illustrate the Government's lack of commitment to promoting social dialogue, such as the development between July and August 2017 of a decent work policy without the participation of the social partners, and the presentation in May 2018 of the National Employment Pact, for the revision of which the ANEP was only allowed, two working hours. The Committee also notes that the employers' organizations denounce attacks against the premises of the ANEP on 30 August 2018. ***The Committee firmly trusts that the Government will take the necessary measures to promote and reinforce tripartism and genuine social dialogue with a view to ensuring the operation of the Higher Labour Council. The Committee once again urges the Government to establish without delay, in prior consultation with the social partners, clear and transparent rules for the nomination of workers' representatives to the CST that comply with the criterion of representativity. The committee requests the Government to provide its comments and information in response to the ANEP's allegations of interference and attacks against ANEP offices. In addition, the Committee trusts that the Government will take the necessary measures to investigate and resolve this matter. The Committee requests the Government to keep it informed of any developments in this respect.***

Article 5(1). Effective tripartite consultations. In its previous comments, the Committee requested the Government to keep it informed of the outcome of the tripartite consultations held on the proposals to be submitted to the Legislative Assembly with regard to the submission of 58 instruments adopted by the Conference between 1976 and 2015. The Committee notes the Government's indication that, with the support of the cooperation provided by the ILO within the framework of the project of the Generalized System of Preferences (GSP) of the European Union, a draft was adopted of a "Protocol on the submission procedure". The Government indicates that on 2 May 2018 the draft Protocol was communicated to the competent bodies for consultation. The bodies required legal consultations with a view to identifying

the commitments and implications of the submission process. The Government adds that, once the final proposed Protocol has been adopted, it will also be sent to the social partners for consultation. The Committee also notes that the ANEP maintains that it has not received the reports on ratified Conventions that are to be sent by the Government under article 23 of the Constitution. ***The Committee requests the Government to provide information on the outcome of the tripartite consultations held in relation to the Protocol on the submission procedure, and to provide a copy of the Protocol when it has been adopted. The Committee also requests the Government to provide updated information on the content and outcome of the tripartite consultations held on all the matters relating to international labour standards covered by Article 5(1)(a)–(e) of the Convention.***

Technical assistance. In reply to the Committee's previous comments, the Government indicates that, in the context of ILO technical assistance, in June and July 2018 various workshops were held separately with representatives of the Government, workers' organizations and employers' organizations with a view to identifying points of agreement relating to the reform or proposal of new rules of the CST as a means of bringing to an end the inactivity of this tripartite body. The Government adds that, in accordance with the recommendations contained in the report of the direct contacts mission carried out in July 2017, support was also requested for the consultations to be held with workers and employers for purposes of formulating legislative reforms proposing to extend freedom of association rights and to develop and promote social dialogue. In this respect, the Government indicates that a first round of consultations has been undertaken with workers with a view to developing a proposed reform of the Labour Code. Finally, the Government indicates that the planned activities will be continued in the months to come in the context of the follow up to the recommendations of the direct contacts mission. ***The Committee requests the Government to continue providing detailed information on the measures adopted in the framework of ILO technical assistance, and on their outcome.***

Grenada

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Article 5 of the Convention. Effective tripartite consultations. The Committee recalls that, in its previous comment, it had requested the Government to provide detailed information on each of the tripartite consultations held on matters concerning international labour standards covered by the Convention. The Government indicates in its report that tripartism is working well in the country to the extent that it has moved towards establishing a Committee of Social Partners. The said Committee includes civil society organizations and the conference of churches; it is responsible for the monitoring of the IMF Structural Adjustment Programme 2014–16 in Grenada, including labour reforms. Additionally, the Government specifies that a comprehensive review of the Labour Code was conducted during the 2014–15 period. Moreover, the Government recalls that, pursuant to section 21(2) of the Employment Act, the functions of the Labour Advisory Board reflect the provisions of *Article 5(1)* of the Convention. ***The Committee requests the Government to provide detailed information on the activities of the Labour Advisory Board on the tripartite consultations on international labour standards covered by the Convention, including full particulars on the consultations held on each of the matters listed in Article 5(1) of the Convention. The Government is also requested to indicate the intervals at which the abovementioned consultations are held, and the nature of the participation by the social partners during these consultations.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Guatemala

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1989)

Articles 2 and 5 of the Convention. Effective tripartite consultations. In reply to its previous comments, the Committee notes the detailed information provided by the Government in its report on the holding of tripartite consultations between 2015 and August 2018 in the Tripartite Committee on International Labour Affairs on each of the subjects relating to international labour standards required by the Convention. The subjects covered during the consultations included the examination of the possible ratification of the Domestic Workers Convention, 2011 (No. 189), and the Part-Time Work Convention, 1994 (No. 175). In this regard, the Committee notes with *interest* that the ratification of Convention No. 175 was registered on 28 February 2017. The Government also reports the holding of tripartite consultations on: ILO technical cooperation activities, the resolutions and conclusions of ILO supervisory bodies and the promotion of greater knowledge of ILO activities, in accordance with Paragraph 6 of Recommendation No. 152. Finally, the Committee notes the reference by the Government to the establishment of the Tripartite Labour Relations and Freedom of Association Commission under the terms of Ministerial Decision No. 45-2018 of the Ministry of Labour and Social Welfare, in accordance with the requests of the ILO supervisory bodies in the context of the examination of the complaint made in 2012 under article 26 of the ILO Constitution concerning non-compliance with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). ***The Committee requests the Government to continue providing detailed and updated information on the consultations held on each of the subjects relating to***

international labour standards covered by Article 5(1)(a)–(e) of the Convention. The Committee also requests the Government to keep it informed of any developments in the possible ratification of Convention No. 189.

Ireland

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1979)

Article 5 of the Convention. Effective tripartite consultations. In response to the Committee's previous comments, the Government indicates that its reply to the General Survey on social protection floors (2019) was transmitted to the Irish Business and Employers' Confederation (IBEC) and the Irish Congress of Trade Unions (ICTU), who were invited to send their comments back to the Government or directly to the ILO. The Committee notes the establishment of the ILO Interdepartmental Group in 2017, which includes the social partners and deals with ILO-related matters such as the prospect of ratifying unratified conventions. The Government adds that the ILO Interdepartmental Group held six meetings from March 2017 to September 2018. Regarding proposals to be made to the competent authority, the Government indicates that the Department of Business, Enterprise and Innovation (DBEI) is currently consulting with IBEC and the ICTU, through meetings and discussions held in the ILO Interdepartmental Group, on the proposed ratification of the Protocol of 2014 to the Forced Labour Convention, 1930. It adds that discussions are also ongoing, with the participation of both social partners, on the proposed Convention and Recommendation on ending violence and harassment in the world of work, in view of the 2019 International Labour Conference. The Government indicates that unratified Conventions and Recommendations are also reviewed at appropriate intervals. It adds that, even though no proposals to denounce ratified Conventions have arisen since its last report, any denunciation of a ratified Convention would involve consultations with the social partners. Regarding reports to be made under article 22 of the ILO Constitution, the Government indicates that the DBEI forwards copies of all reports to IBEC and the ICTU, who are invited to provide their comments either to the DBEI or directly to the ILO. *The Committee welcomes the information provided and requests the Government to provide updated information on the activities of the ILO Interdepartmental Group and to indicate the manner, frequency and outcome of tripartite consultations relevant to the Convention. It also requests the Government to continue to provide full particulars on the content and outcome of the consultations held on each of the matters related to international labour standards listed in Article 5(1) of the Convention. More particularly, the Committee requests the Government to provide information on the outcome of the consultations held on the proposed ratification of the Protocol of 2014 to the Forced Labour Convention, 1930.*

Jamaica

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1996)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 5 of the Convention. Effective tripartite consultations. The Committee notes from the report that, in addition to the Domestic Workers Convention, 2011 (No. 189), the Occupational Safety and Health Convention, 1981 (No. 155), is being considered by the Labour Advisory Committee (LAC). It also notes that the LAC met on a yearly basis in 2012–14 and, since the start of 2015, there have been three LAC meetings. The Government reiterates that the matters relating to *Article 5* of the Convention are not usually individually addressed at LAC meetings. The Government adds that, from time to time, particular issues concerning international labour standards are addressed by different members of the LAC, although not in the committee setting. *The Committee requests the Government to provide detailed information on the content and outcome of the tripartite consultations held by the LAC on each of the matters listed in Article 5(1) of the Convention, including replies to questionnaires concerning items on the agenda of the International Labour Conference and comments on proposed texts to be discussed by the Conference, proposals to be made to Parliament in connection with the submission of instruments adopted by the Conference, and questions arising out of reports to be made on the application of ratified Conventions under article 22 of the ILO Constitution.*

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Madagascar

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)

Articles 2 and 5 of the Convention. Effective tripartite consultations. In its previous comments, the Committee requested the Government to provide detailed information on the subjects and outcome of the tripartite consultations held on each of the items set out in *Article 5(1)*. The Government indicates that it is making efforts to ensure compliance with the obligations deriving from the Conventions that it has ratified, including Convention No. 144, and recognizes that tripartite consultations on international labour standards were not undertaken effectively. However, it emphasizes that significant improvements have been implemented following a workshop to strengthen capacities on international labour standards and for the preparation of reports organized by the ILO on 22 and 23 October 2016. In 2016, the Government

replied to the Committee's comments on Conventions Nos 29, 87, 98, 100, 105, 111 and 182. It adds that, although the social partners were consulted before the final replies were sent, they made no observations in that regard. In 2017, the Government replied to the Committee's comments concerning Conventions Nos 6, 26, 81, 87, 88, 95, 97, 98, 124, 129, 159 and 173. Following the tripartite consultations held, the observations made by the most representative workers' organizations were included in the final replies. With regard to the re-examination of unratified Conventions and of Recommendations to which effect has not yet been given, the Government indicates that tripartite consultations have been held on 11 instruments respecting working time (Conventions Nos 1, 30, 47, 106 and 175 and Recommendations Nos 13, 98, 103, 116, 178 and 182). The Government adds that it sent its replies to the most representative organizations of employers and workers, but that the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE) was the only one to provide comments on this subject. It adds that, between 28 February and 1 March 2017, the Ministry of Labour organized, with ILO support, a tripartite workshop to validate the situation with regard to the Labour Relations (Public Service) Convention, 1978 (No. 151). This review was validated unanimously by the representatives of the three partners present. Furthermore, a steering committee to promote Convention No. 151 was established to follow the process of ratification and engage in advocacy with the competent authorities, including the Government and Parliament. The Government adds that it has responded to the abrogation of Conventions Nos 21, 50, 64, 65, 86 and 104 and to the withdrawal of Recommendations Nos 7, 61 and 62, included on the agenda of the 107th Session of the International Labour Conference in 2018. It specifies that these responses were communicated to the most representative social partners, but that the latter made no observations on this subject. In its 2000 General Survey, *Tripartite Consultation International Labour Standards*, paragraph 71, the Committee recalls that *Paragraph 2(3)* of the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152), specifies that consultations may only be undertaken through written communications, "where those involved in the consultative procedures are agreed that such communications are appropriate and sufficient". The Committee notes with *interest* that the Government, with ILO support, organized a workshop on 12, 13 and 14 September 2017 to validate the comparative study of the legislation in force and the provisions of the Maritime Labour Convention, 2006 (MLC, 2006), and the Work in Fishing Convention, 2007 (No. 188), with a view to their ratification. It adds that two roadmaps on the ratification of the MLC, 2006, and Convention No. 188 were unanimously approved by the tripartite partners present. ***The Committee requests the Government to continue providing updated information on the manner in which it ensures effective tripartite consultations, as well as on the content and outcome of the tripartite consultations held on each of the issues covered by Article 5(1). It also requests the Government to keep it informed of any developments relating to the ratification of Conventions Nos 151, 188 and the MLC, 2006.***

Article 3. Choice of the representatives of employers and workers by their respective organizations. The Committee notes that the implementation of Decree No. 2011-490 on trade union organizations and representativity implies for the tripartite partners the implementation of various types of action, including the holding of elections for staff delegates at the enterprise level within the territory of Madagascar by the Ministry of Labour, the convening of the social partners for an indication of the provisional results, and the consolidation by ministerial order of the definitive results for national and regional representation. The Government indicates that, in accordance with this process, the elections of staff representatives were launched in 2014 throughout Madagascar. It adds that Order No. 34-2015 to determine trade union representativity for 2014 and 2015 was adopted and was issued in February 2014. However, the Order has been contested by certain workers' organizations, including the General Confederation of Malagasy Trade Unions (FISEMA), FISEMARE and the Revolutionary Malagasy Union (SEREMA), challenging the outcome of the ballot, which placed the Christian Confederation of Malagasy Trade Unions (SEKRIMA) first among the most representative unions at the national level. In March 2015, these unions lodged an appeal for the result to be set aside. The Government explains that, as the appeal was suspensive in its effect, the application of the Order was suspended until the court issued its ruling rejecting the appeal in 2017. Moreover, as the establishment of the various labour-related bodies is conditional upon representativity, as they involve tripartite representation, such as in the case of inter-enterprise medical services management councils and the executive council of the National Social Insurance Fund (CNAPS), the tripartite actors concerned agreed to adopt an alternative solution. In this context, the Government indicates that all the representatives of the various organizations appointed to the different social dialogue structures in existence, and the labour-related bodies referred to above, were subject to tacit renewal of their mandates. ***The Committee requests the Government to make every effort, in consultation with the social partners, to ensure that tripartism and social dialogue are promoted so as to facilitate procedures that guarantee effective tripartite consultations (Articles 2 and 3). In this respect, it requests the Government to provide updated information on any developments relating to the choice of employers' and workers' representatives for the purposes of the procedures covered by the Convention, including the dates and organization of their elections. The Committee also requests the Government to provide a copy of the Order that is in force with its next report.***

Malawi

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1986)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Tripartite consultations required by the Convention. The Committee refers to its previous observations and invites the Government to submit a report containing detailed information on the tripartite consultations held on each of the matters related to international labour standards covered by Article 5(1) of the Convention. It also requests the Government to include information on the nature of any reports or recommendations made as a result of such consultations.

Article 5(1)(c) and (e) of the Convention. Prospects of ratification of Conventions and proposals for the denunciation of ratified Conventions. In reply to the Committee's previous comments, the Government indicates that it will consult with the social partners regarding the denunciation of Conventions Nos 50, 64, 65, 86, 104 and 107. The Committee recalls that the ILO's Governing Body recommended the denunciation of Conventions Nos 50, 64, 65, 86, 104 and 107 concerning indigenous workers and the ratification of the most updated instrument, the Indigenous and Tribal Peoples Convention, 1989 (No. 169). In the Committee's 2010 direct request on the Underground Work (Women) Convention, 1935 (No. 45), the Committee noted that the Tripartite Labour Advisory Council approved the denunciation of Convention No. 45 and that the Government was consulting with the social partners on the possible ratification of the Safety and Health in Mines Convention, 1995 (No. 176). *The Committee invites the Government to include in its next report information on the progress achieved to re-examine unratified Conventions – such as Conventions Nos 169 and 176 – in order to promote, as appropriate, their implementation or ratification and to denounce outdated Conventions.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Nigeria

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)

Article 1 of the Convention. Consultations with representative organizations. Since 2012, the Committee has repeatedly requested the Government to report on the results of the legislative reform and its impact on the improvement of consultations with representative organizations that enjoy freedom of association, as required under this Convention. In this context, the Committee has also consistently reminded the Government that it is important for employers' and workers' organizations to enjoy the right to freedom of association, without which there could be no effective system of tripartite consultation. In its response, the Government refers to the National Labour Advisory Council (NLAC), as the institutionalized tripartite body established in compliance with the provisions and requirements of the Convention. It adds that consultations with the social partners are ongoing, with the aim of advancing the revision of the national labour legislation. In this regard, the Committee notes the Government's indication that a stakeholder meeting was held on 18 April 2018 under the auspices of the ILO Office in Abuja. The Government adds that the stakeholders also participated in a public hearing before the National Assembly on 23 April 2018. *The Committee expresses the firm hope that the pending legislative reforms will be finalized without further delay. It reiterates its request that the Government report on the results of the reform and its impact on the improvement of consultations with representative organizations that enjoy freedom of association, as required under this Convention. It also requests the Government to indicate the outcome of the meetings held with the stakeholders in April 2018 in relation to the reforms, and to provide a copy of the relevant legislation once it is adopted.*

Article 5(1). Tripartite consultations required by the Convention. The Government indicates that tripartite consultations are used to respond to the questionnaires relating to items on the agenda of the International Labour Conference (ILC). The Committee notes that an interactive session for Nigeria's tripartite delegation to the 107th session of the ILC was held on 14 and 15 May 2018, to discuss the items on the ILC agenda. The Government adds that a practical tripartite workshop on reporting was held on 26 and 27 June 2018, to assist with meeting Nigeria's reporting obligations under article 22 of the ILO Constitution. The Government indicates that effective tripartite consultations will continue to be held on proposals made to the National Assembly. The Committee notes the Government's indication that the representative organizations were consulted with regard to the Special Maritime Session of the NLAC for the ratification of the MLC, 2006 held in February 2013, which led to its ratification in June 2013. In addition, a tripartite technical committee of maritime stakeholders on seafarers held a meeting on 26 February 2014 to discuss a joint proposal on the amendment of the Code relating to Resolutions 2.5 and 4.2 of the MLC 2006. The resolutions at this meeting led the Government to convene a meeting of technical experts of the NLAC on the amendment of the Code of the MLC 2006 to articulate Nigeria's tripartite position in support of the amendment. *The Committee welcomes the information provided and requests the Government to provide full and detailed information on the content and outcome of tripartite consultations held on all matters concerning international labour standards covered by the Convention, including consultations relating to the questionnaires: on Conference agenda items (Article 5(1)(a)); proposals to be made to the competent authorities in connection with the submission of Conventions and Recommendations pursuant to article 19 of the ILO Constitution (Article 5(1)(b)); the re-examination at appropriate intervals of unratified Conventions and Recommendations to which effect has not yet been given (Article 5(1)(c)); questions arising out of reports to be*

presented on the application of ratified Conventions (Article 5(1)(d)); and proposals concerning the possible denunciation of ratified Conventions (Article 5(1)(e)).

Article 6. Operation of the consultative procedures. The Government indicates that the representative organizations have been consulted in accordance with Article 6. ***The Committee once again requests the Government to indicate whether, in accordance with Article 6, the representative organizations have been consulted in the preparation of an annual report on the working of the consultation procedures provided for in the Convention and, if so, to indicate the outcome of these consultations.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Serbia

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2005)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee recalls that the Conference Committee, at its June 2018 session, recommended that the national authorities take the necessary and appropriate measures to ensure effective and efficient tripartite consultation of the national social partners in implementation of Convention No. 144. It further recommended that the Government take the necessary steps to ensure that meaningful, effective and timely consultations on matters concerning international labour standards take place, including within the framework of the Social and Economic Council of the Republic of Serbia. The Conference Committee also requested the Government to report on the issues discussed and the frequency of tripartite consultations to the Committee of Experts before its November 2018 session. It invited the Government to avail itself of ILO technical assistance in relation to the conclusions.

Articles 2 and 5 of the Convention. Effective tripartite consultations. The Committee notes that the Government's report has not been received. The Committee nevertheless understands that the Government has made a request for technical assistance in relation to the application of the Convention. In this regard, the ILO is providing technical support for a tripartite workshop to be held in January 2019. ***The Committee requests the Government to report on the outcome of the planned tripartite workshop. It also urges the Government to continue its efforts to take effective and time-bound measures to ensure effective tripartite consultations in conformity with the provisions of the Convention, and to report on the nature, content and frequency of consultations in relation to the matters within the scope of Article 5(1)(a)–(e) of the Convention.***

Sierra Leone

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1985)

The Committee notes with ***deep concern*** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2004.

Effective tripartite consultations. The Committee notes the Government's report supplied in June 2004 indicating its commitment to promote tripartite consultation throughout the country as well as supporting the tripartite delegation to the International Labour Conference. ***The Committee hopes that the Government and the social partners will examine how the Convention is applied and that the Government's next report will contain indications on any measures taken in order to implement effective tripartite consultation in the sense of the Convention (Articles 2 and 5 of the Convention).***

The Committee recalls that the Office has the technical capacity to help strengthen social dialogue and support the activities that governments and employers' and workers' organizations undertake for the consultations required by the Convention.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Bolivarian Republic of Venezuela

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

The Committee notes the observations of the Independent Trade Union Alliance Confederation of Workers (CTASI), received on 28 May and 29 August 2018. The Committee also notes the observations of the International Organisation of Employers (IOE) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), received on 1 September 2018.

The Committee recalls that, at its 329th Session (March 2017), the Governing Body declared admissible a complaint concerning non-observance by the Bolivarian Republic of Venezuela of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.

87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), made under article 26 of the ILO Constitution by several Employers' delegates to the 104th Session (2015) of the International Labour Conference, and at its 332nd Session (March 2018), the Governing Body decided that a commission of inquiry would be established. In these circumstances, and in accordance with usual practice which suspends the functioning of the supervisory machinery during the period of operation of a commission of inquiry, the Committee will renew its supervision of the application of the Convention in the Bolivarian Republic of Venezuela once the commission has concluded its work.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 144** (*Belize, Dominica, Ghana, Guinea, Guyana, Honduras, Hungary, Iceland, Indonesia, Iraq, Israel, Japan, Jordan, Republic of Korea, Kyrgyzstan, Lao People's Democratic Republic, Lesotho, Liberia, Lithuania, Malaysia, Mali, Mauritius, Mexico, Republic of Moldova, Montenegro, Morocco, Namibia, Netherlands, Netherlands: Aruba, Netherlands: Curaçao, Netherlands: Sint Maarten, New Zealand, Nicaragua, Pakistan, Saint Vincent and the Grenadines, Singapore, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Ukraine, Viet Nam, Yemen, Zambia*).

Labour administration and inspection

Albania

Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2007)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Convention No. 81 and Convention No. 129 together.

Articles 3(1)(a) and (b) and (2), and 14 of Convention No. 81 and Articles 6(1)(a) and (b) and (3), and 19 of Convention No. 129. Labour inspection activities in the area of occupational safety and health (OSH) in agriculture. The Committee notes the Government's indication, in reply to its previous request, that the number of inspections in the agricultural sector has remained at 0.8 per cent of total inspections. The Committee notes in this regard that, as indicated in the Government's Occupational Safety and Health Policy Document and Action Plan (2016–20), nearly half of the workforce in Albania is employed in the agricultural sector. The Committee also notes the Government's indication that no training has yet taken place for inspectors on agriculture-related subjects. **The Committee once again requests the Government to provide information on the measures taken to secure the enforcement of laws and regulations in agriculture, including with respect to OSH, and to continue to provide information on the number of inspections carried out in that sector. The Committee requests the Government to report on training for labour inspectors on agriculture-related subjects, specifying the subjects, duration, participation and outcomes.**

Article 6 of Convention No. 81 and Article 8 of Convention No. 129. Conditions of service. The Committee previously noted the information in the 2009 ILO audit report on labour inspection services that the remuneration for labour inspectors was not attractive and that there was no real human resources strategy for recruitment and career development. The Committee notes the copy of Decision No. 726 of 21 December 2000 on salaries of employees of budgetary institutions provided with the Government's report, which breaks down the monthly salaries of civil servants. **The Committee requests the Government to indicate whether any measures have been adopted since the 2009 ILO audit report to improve the remuneration scale and career prospects of labour inspectors in relation to other comparable categories of public officials, and requests the Government for clarification regarding the actual remuneration scale and career prospects of labour inspectors in relation to other comparable categories of government employees exercising similar functions, such as tax inspectors or police officers.**

Articles 10, 11 and 16 of Convention No. 81 and Articles 14, 15 and 21 of Convention No. 129. Staffing and material means of the labour inspection services; scope of inspections carried out. The Committee previously noted the Government's indication that 167 labour inspectors were not sufficient to fully perform the inspection tasks required by law. The Committee notes the Government's indication in its report that the number of labour inspectors employed by the State Labour Inspectorate and Social Services (SLISS) is currently 155 employees, with 37 at the central level and 118 employees at the regional level. The Committee further notes that the Government reports that the regional offices still do not have sufficient office equipment, that the SLISS has only eight vehicles (for 12 regions) and that funds are insufficient for the reimbursement of labour inspectors performing their duties. It notes in this respect the Government's indication in its report submitted under the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), that the main problem for labour inspection is the lack of financial resources, which limits the ability of inspectors to travel to entities that should be inspected. **The Committee requests the Government to take the necessary measures to ensure that the budget allocated to labour inspection is sufficient to secure the effective discharge of the duties of the inspectorate, given the decrease in the number of labour inspection staff and the continuing inadequacy of equipment and vehicles. The Committee also requests the Government to continue to provide information on the staffing and material means of the SLISS in performing inspections in agriculture, including transportation and local offices.**

Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129. Right of inspectors to free entry of workplaces. The Committee notes the Government's indication that 90 per cent of inspections are conducted pursuant to a predetermined plan that is developed in cooperation with labour inspectors using the e-inspection portal, with the approval of the regional directorate of inspection. While the remaining 10 per cent of inspections are unscheduled and/or emergency inspections, which can be undertaken without authorization or notification, the Government reports that an authorizing officer shall issue an authorization within 24 hours. The Government indicates that labour inspectors are provided with cards so that they can identify themselves when entering workplaces and conducting inspection operations. The Committee observes that where only 10 per cent of all inspections are unscheduled and/or responding to emergency circumstances, this may undermine the effectiveness of predetermined scheduled inspections because problems may be concealed and thus remain undetected. **The Committee requests the Government to indicate the procedure by which the authorizing officer must issue an authorization, and the consequences for the inspection if the authorization is not issued within the 24-hour time frame provided. In addition, the Committee requests the Government to indicate how often the 10 per cent of unscheduled and/or emergency inspections actually take place within 24 hours, how often they take place without advance notification, and how often they result in findings of violations or unsafe conditions.**

Articles 5(a), 17 and 18 of Convention No. 81 and Articles 12(1), 22 and 24 of Convention No. 129. Prosecutions and penalties. The Committee noted, in its previous comments, that the number of fines imposed was relatively low (in 2011, 381 imposed in relation to over 14,000 inspections). In this respect, the Committee notes the Government's indication that Law No. 10279 of 2010 "on Administrative Offences" is used in conjunction with section 48 of Law No. 10433 "on Inspection" to provide appropriate administrative penalties where an infringement is detected during the inspection process. The Government indicates that the law aims to provide fair and equal treatment and non-discriminatory rules to be applied by inspectors. The Government emphasizes that the main purpose of the policy pursued by the SLISS is to reduce the number of fines in a rational way, by focusing on prevention and awareness raising concerning safety and health at work rather than penalties. In addition, while the Committee noted in 2013 that it was not required for the labour inspectorate to pay an advance for the enforcement of fines

issued, the Committee notes that the Government indicates that the SLISS repaid penalties in the amount of 11,487,713 Albanian lek (ALL) (approximately US\$101,780) in 2014 and ALL4,070,255 (approximately US\$46,060) from January to May 2015. *Noting that the policy pursued by the SLISS intends to reduce the number of fines in a rational way, the Committee once again requests the Government to provide information on the number and nature of fines imposed by virtue of labour inspections, the number of judicial executions launched for the enforcement of orders, as well as the number of accidents reported and violations detected during the reporting period. In addition, the Committee further requests information regarding the repayment of penalties by the SLISS, indicating the conditions for such repayment and the total amount of advance payments not reimbursed to the labour inspectorate.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Antigua and Barbuda

Labour Inspection Convention, 1947 (No. 81) (ratification: 1983)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Articles 3(2), 10 and 16 of the Convention. Functions and number of labour inspectors and frequency of inspection visits. In its previous comments, the Committee noted that according to a 2009 job description communicated by the Government, labour inspectors were obliged to carry out other functions in the Labour Department, in addition to their primary duties, as well as the functions assigned to them by their immediate supervisor, the Labour Commissioner or the Deputy Labour Commissioner. It also noted that from 1997 to 2010, there had been a high fluctuation in the number of labour inspections, with a decrease in the number of labour inspections from 2009 to 2010 of almost half (that is, from 248 to 128). The Committee notes the Government's indication in its present report that the 2009 job description of labour inspectors remains valid and that unforeseen challenges had been the cause of the fluctuations and reductions in the number of labour inspections. *The Committee requests that the Government provide detailed information on the current number of labour inspectors (including the number of labour inspectors specializing in occupational safety and health (OSH)), and an indication as to whether this number is sufficient to secure the effective discharge of the duties of the inspectorate. The Committee also requests that the Government provide information on whether any additional functions are entrusted to labour inspectors (such as the mediation and conciliation of labour disputes), as well as information on the measures taken to ensure that any further duties do not interfere with the effective discharge of the primary duties of labour inspectors.*

Article 5(a) and (b). Cooperation between the labour inspection services and other government services or public institutions and collaboration with employers' and workers' organizations. The Committee again notes with *regret* that the Government has once again not provided the requested information on the content and modalities of any existing cooperation between the labour inspectorate and the Ministry of Health (or information on any difficulties preventing such cooperation in practice). The Committee further notes that the Government has once again not provided the requested information on the details of collaboration between the labour inspectorate and the social partners. *The Committee therefore once again requests that the Government provide detailed information on the measures taken to develop cooperation between the labour inspectorate and the Ministry of Health (such as on regular exchange of information and data, common training seminars or conferences). It also once again requests that the Government provide details on the content and modalities of any existing cooperation (such as the organization of conferences or joint committees, or similar bodies, to discuss questions concerning the enforcement of labour legislation and the health and safety of workers, and whether the labour inspectorate is represented on the National Labour Board).*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Bangladesh

Labour Inspection Convention, 1947 (No. 81) (ratification: 1972)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2018.

Articles 2, 4 and 23 of the Convention. Labour inspection in export processing zones (EPZs) and special economic zones (SEZs). The Committee recalls its reiterated requests to bring export processing zones (EPZs) and special economic zones (SEZs) under the purview of the labour inspectorate. In this regard, the Committee notes the Government's indication in its report that the draft EPZ Labour Act (which will also apply to SEZs) has been revisited with a view to including provisions on labour inspection by the national labour inspection service, along with the existing supervision exercised by the Bangladesh Export Processing Zones Authority (BEPZA). The Committee also notes that the ITUC criticizes that the new draft EPZ Labour Act continues to entrust the BEPZA with the supervision of labour standards in EPZs. The trade union adds that the BEPZA is an entity primarily interested in protecting investment and not addressing labour law violations of workers. The ITUC states in this respect that there should be no discrimination between workers inside and outside of the zones with respect to their rights. *Noting with concern that it has now been more than four years since the request of the Conference Committee on the Application of Standards (CAS) on this matter, the Committee urges in the strongest terms that the Government complete its revised draft of the EPZ Labour Act in the very near future in order to bring EPZs and SEZs under the purview of the labour inspectorate.*

Article 6. Status and conditions of service of labour inspectors. In its previous comments, the Committee noted that retaining labour inspectors within the labour inspection services was a problem and that a number of recently

recruited labour inspectors had left the Department of Inspection for Factories and Establishments (DIFE), after having been trained, to take up work with other government services. It also noted that the labour inspection services offered less favourable career prospects than other government services and requested the Government to review the professional profiles and grades of labour inspectors to ensure that they reflect the career prospects of public servants exercising similar functions within other government services, such as tax inspectors or the police.

The Committee notes the Government's information provided in a table in reply to the Committee's request, which shows that the salary of (regular) labour inspectors and tax inspectors are equal, but that police officers receive the same salary as the Assistant Inspector-General (which is one of the highest professional grades in the labour inspection service). The Committee also notes the Government's indication that a study on the reasons for the high attrition rate, recommended, among other things, the development of the competencies of labour inspection staff and the creation of more senior positions. ***The Committee requests the Government to provide additional information on the salary and benefit structure applicable to labour inspectors and public servants exercising similar functions within other government services (such as tax inspectors or the police) in the highest professional categories of those services, as well as information on any measures taken or envisaged to align the conditions of service with that of public servants exercising similar functions. It also requests the Government to provide information on the specific measures taken to implement the recommendations made in the study on the reasons for the high attrition rate, concerning the creation of more senior positions within the labour inspection services.***

Articles 7, 10, 11 and 16. Human resources and material resources of the labour inspectorate. Frequency and thoroughness of labour inspections. In its past comments, the Committee welcomed the steady increase in the number of labour inspectors since the Rana Plaza tragedy in 2013. However, it notes with **regret** that the Government has not provided any new information on the progress made with the recruitment of labour inspectors for the filling of the 575 labour inspection positions approved in 2014. It further notes with **concern** that the number of labour inspectors decreased from 345 to 320 between 2017 and 2018. The Committee also notes the observations made by the ITUC that the effective enforcement of labour law continues to be absent due to the weakness of the labour inspection system, and that the frequency and quality of labour inspections remain insufficient. The trade union adds that the incidence of fatal occupational accidents remains high in the textile, ship-breaking and stone-crushing industries. ***The Committee urges the Government to continue to make every effort to recruit an adequate number of qualified labour inspectors, and to fill all of the 575 labour inspection posts that have already been approved in 2014. It requests the Government to continue to provide information on the current number of labour inspectors working at the DIFE, as well as on the number of labour inspection visits carried out, including specific information for those industries with high rates of occupational accidents. Noting the information provided by the Government in this respect, the Committee also requests the Government to continue to provide information on the budget, equipment and transport facilities available to the DIFE, and the training provided to labour inspectors.***

Articles 12(1), 15(c) and 16. Inspections without previous notice. Duty of confidentiality in relation to complaints. In its previous comment, the Committee noted that in 2014, only 2.5 per cent of all inspections were random or complaints-driven inspections without prior notice. It emphasized that, in light of these extremely low numbers, both the duty of labour inspectors to maintain confidentiality that an inspection was made as a result of a complaint, and the efficiency of inspections, were put at risk. The Committee subsequently noted the Government's indication that in 2016–17, the percentage of unannounced inspections (i.e. random or complaints-driven inspections implemented without prior notice) had increased to 20 per cent of all inspections, and that the codification of the duty to keep confidential the existence or source of a complaint could be considered in the context of the proposed review of the Bangladesh Labour Act (BLA). The Committee notes that the Government provides information on the total number of inspections and their results, but not the requested information on the results of unannounced inspection visits. The Committee further notes that the Government has not provided the requested information on any measures taken to codify the duty of confidentiality in the national legislation. ***The Committee once again urges the Government to consider codifying the duty of confidentiality, either in the context of the proposed review of the BLA or in other regulations or guidelines concerning labour inspection, for the purpose of legal certainty. It also requests the Government to provide information on the number of inspection visits that were unannounced and those that were undertaken with prior notice, and once again requests information on the results of unannounced inspections covering investigations of accidents or addressing complaints, including the nature of resolutions reached, violations identified and sanctions applied.***

Articles 17 and 18. Legal proceedings, effective enforcement and sufficiently dissuasive penalties. The Committee notes the information provided by the Government, in reply to the Committee's request for statistics, on the number of inspections undertaken and violations detected in the 2017–18 fiscal year (39,710 inspections and 257,904 violations). It notes that in the same period, 1,689 cases were submitted to the labour courts of which 781 were resolved. The Committee notes with **concern** that the amount of penalties imposed up until May 2018 was Bangladesh Taka (BDT) 2.85 million (approximately US\$3,401), which based on the number of cases resolved, appears to be quite low (an average of approximately US\$5 per resolution). The Committee also notes the information provided by the Government, in response to its request, that there is one legal officer at the DIFE responsible for the follow-up of labour law violations detected by labour inspectors, that a legal advisory firm is affiliated with the DIFE, and that there is a plan to establish a

legal unit at the DIFE. However, the Committee notes with *regret* that the Government does not provide a reply in response to the Committee's request for information on any measures taken or envisaged to ensure that penalties for labour law violations are sufficiently dissuasive, in the context of the proposed legislative reform of the BLA. In this respect, the Committee also notes the observations made by the ITUC concerning the need to strengthen the sanctions for employers that fail to comply with the legal provisions. ***The Committee once again requests the Government to provide information on any measures introduced or envisaged, in the context of the proposed legislative reform, to ensure that penalties for labour law violations are sufficiently dissuasive and, where applicable, to improve the proceedings for the effective enforcement of the legal provisions. In this respect, it also requests the Government to continue to provide information on the establishment of a legal unit at the DIFE, including on the number of staff and their functions, once established. Lastly, it once again requests the Government to provide information on the specific outcome of the cases referred to the labour courts (such as the imposition of fines or sentences of imprisonment and the legal provisions to which they relate).***

The Committee also recalls that it previously noted that freedom of association cases (including cases of anti-union discrimination) were addressed by the Department of Labour (DOL). The Committee notes the Government's indication, in response to the Committee's request, that freedom of association cases are dealt with by the DOL because this Department is also responsible for the registration of employers' and workers' organizations, and their activities. The Committee notes the Government's indications that labour officials of the DOL address cases of alleged violations of freedom of association through conciliation. In this regard, the Committee once again recalls its indications that cases of anti-union discrimination are not generally appropriate for conciliation or mediation and in any event must not undermine strict enforcement of applicable laws. ***With reference to its comments under the Freedom of Association and Protection of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee requests the Government to continue to provide information on the measures taken to secure the enforcement of legal provisions relating to freedom of association.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2019.]

Central African Republic

Labour Inspection Convention, 1947 (No. 81) (ratification: 1964)

Article 3(2) of the Convention. Duties of labour inspectors. In its previous comments, the Committee noted that a third of labour inspectors had supervisory duties and that, under the Labour Code, labour inspectors were responsible for the conciliation of collective and individual labour disputes. It asked the Government to provide an estimate of the time spent on the primary functions as set out in *Article 3(1)* of the Convention as compared to the other functions of the labour inspectorate. In this regard, the Committee observes that, according to the technical memorandum on the National Strategy for the Development and Modernization of the Labour Administration System of the Central African Republic, prepared in 2017 with the support of the ILO and attached to the Government report, the conciliation of individual and collective labour disputes constitutes the majority of inspectors' work. The Committee also notes that, under the Labour Code, inspectors are assigned other duties relating to the exercise of freedom of association and collective bargaining (such as registering trade unions, supervising elections of staff representatives, facilitating the conclusion of collective labour agreements and receiving advance notice of strikes and lockouts). ***The Committee requests the Government to provide information on the measures taken or envisaged to ensure that any additional duties assigned to labour inspectors do not interfere with the exercise of their primary duties. It further requests the Government to provide information on the steps taken in this regard and on the time and resources spent by labour inspectors on their various duties.***

Articles 11 and 16. Material means and transport facilities placed at the disposal of labour inspectors and reimbursement of necessary expenses. Frequency of inspection visits and effectiveness of the system. In its previous comments, the Committee noted: (a) the persistent lack of material means placed at the disposal of the labour inspection services, including for offices and transport facilities, as well as for the reimbursement of necessary expenses; and (b) the infrequency of inspection visits. The Committee notes in this regard the information provided by the Government in its report on its efforts in 2017 to provide every Regional Directorate of Labour with a motorbike. The Government points out that the prefectural services sometimes rely on employers to provide them with transportation and that the recently created prefectural services do not have their own facilities. The Committee also notes the information provided in the 2013 partial activity report of the Ministry of Labour, Employment, Vocational Training and Social Security, according to which various types of difficulties have hindered the effective realization of the objectives pursued by the General Directorate of Labour and Social Welfare, such as security problems and the plundering of the Directorate. The Committee also notes the Government's indication that the political and military difficulties that arose in 2012 continue to have a negative impact on several reform projects under way. ***While taking due note of the difficult situation in the country, the Committee requests the Government to continue its efforts to address the difficulties identified and to guarantee the effectiveness of the system, including by taking the necessary measures to provide labour inspectors with the means necessary for the effective performance of their duties. Recalling that the provision of transport facilities by***

employers may pose problems relating to the principles of impartiality and independence of labour inspectors, the Committee also requests the Government to continue its efforts to furnish labour inspectors with the transport facilities necessary for the performance of their duties, in accordance with Article 11(b) of the Convention.

The Committee is raising other matters in a request addressed directly to the Government.

Congo

Labour Inspection Convention, 1947 (No. 81) (ratification: 1999)

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2011.

Absence of practical information to enable the Committee to assess the operation of the labour inspectorate in relation to the provisions of the Convention and relevant national laws. The Committee notes the updated information regarding the number and geographical distribution by category of labour inspection staff. It notes, by comparison with the data given in the report received from the Government in 2008, a substantial reduction in labour inspection staff, in particular labour inspectors (from 75 to 55) and principal controllers (from 96 to 72). The Committee recalls that, according to *Article 10*, in order to secure the effective discharge of the duties of the labour inspectorate, the number of labour inspectors must be determined with due regard to the importance of the duties which inspectors have to perform, in particular the number, nature, size and situation of the workplaces liable to inspection; the number and classes of workers employed in such workplaces; the number and complexity of the legal provisions to be enforced; the material means placed at the disposal of the inspectors; and the practical conditions under which visits of inspection must be carried out.

While the laws and regulations concerning labour inspection and its mandate and prerogatives are available, it must be noted that there are no numerical data on other areas defined in *Article 10* and, as the Government admits, there are no specific measures for giving effect to the provisions of *Article 11* concerning the material conditions of work of labour inspectors, who do not have access to the transport facilities required for them to carry out their duties. The Committee notes, on the other hand, that according to the Government, inspectors' travel and related costs are reimbursed by the competent authority on presentation of invoices, which was not always the case, according to the report received in 2008.

The Committee once again requests the Government to provide in its next report all the available information needed to assess the application of the Convention in law and in practice. This information should cover, among other matters: (i) the up-to-date geographical distribution of public officials responsible for labour inspection as defined in Article 3(I) of the Convention; (ii) the geographical distribution of workplaces liable to inspection or, at the least, those for which the Government considers that the conditions of work require specific protection from the labour inspection services; (iii) the frequency, content and number of participants at the training courses provided for labour inspectors during their career; (iv) the level of remuneration and conditions for career advancement in relation to other public officials with comparable responsibilities; (v) the proportion of the national budget allocated to the public labour inspection services; (vi) a description of the cases in which inspectors visit enterprises, the procedure followed and the transport facilities that they use for this purpose, the activities that they carry out and their outcome; and (vii) the proportion of supervisory activities carried out by inspectors in relation to their conciliation duties.

The Committee also requests the Government to communicate a copy of any inspection activity reports originating from regional directorates, including the reports cited in the Government's reports sent to the ILO in 2008 and 2011; a copy of the draft or final text of the regulations relating to the status and conditions of service of labour inspectors; copies of the proposed amendments to the Labour Code, and of the memorandum which was reportedly sent to the ILO and is intended to improve the functioning of the labour inspection service.

In order to establish a labour inspection system that will respond to the social and economic goals which are the object of the Convention, the Committee urges the Government to make every effort to adopt the measures needed to implement the measures described in the Committee's general observations made in 2007 (concerning the need for effective cooperation between the labour inspection service and the judicial system), in 2009 (concerning the need for statistics on industrial and commercial workplaces subject to labour inspection and the number of workers covered, and 2010 (concerning publication of the content of an annual report on the functioning of the labour inspection system). The Committee recalls once again the possibility of obtaining technical assistance from the ILO and of requesting, within the context of international financial cooperation, financial assistance in order to give the necessary impetus to the establishment and operation of the labour inspection system, and would be grateful for any information on progress made and difficulties encountered.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Croatia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1991)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1991)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations of the Union of Autonomous Trade Unions of Croatia (UATUC) and the Independent Trade Unions of Croatia (NHS) on Convention No. 81, received in 2016.

Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. Additional functions entrusted to labour inspectors. The Committee notes that the Government has not replied to its previous request regarding the role of the

labour inspectorate and the justice system in the enforcement of the Foreigners Act (FA) and on joint activities involving the labour inspectorate in combating undeclared work. The Committee notes that pursuant to section 3(2) of the Labour Inspection Act (LIA), labour inspectors conduct inspections in connection with the implementation of other legislation whenever stipulated in specific legislation. The Committee also notes that the Annual Report of the labour inspectorate of 2017, referred to by the Government, contains information on the work of labour inspectors in the enforcement of the provisions of the FA, including measures relating to the work of foreigners without a permit or a work registration certificate (section 208 of the FA). The Committee recalls once again its previous comments that the Convention does not contain any provision suggesting that any workers be excluded from the protection afforded by labour inspection on account of their irregular employment status, and that the primary duty of labour inspectors is to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers and not to enforce immigration law. It further recalls that pursuant to *Article 3(2)* of Convention No. 81 and *Article 6(3)* of Convention No. 129, any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. ***The Committee requests the Government to take measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors to ensure the protection of workers in accordance with labour inspectors' primary duties as provided for in Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. It also once again requests the Government to provide detailed information regarding the role of labour inspectors in the enforcement of the FA, as well as any other joint activities between the labour inspectorate and other state bodies aimed at combating undeclared work, including the scope of these activities, the proportion of labour inspection activities and resources directed to the enforcement of the FA or otherwise combating undeclared work, and the impact of these activities on the work of the labour inspectorate with regard to the enforcement of legal provisions on conditions of work and the protection of workers.***

Articles 3(2), 10, and 16 of Convention No. 81 and Articles 6(3), 14 and 21 of Convention No. 129. Number of labour inspectors for the effective discharge of the duties of the inspectorate and additional duties. The Committee notes the observations by the UATUC and the NHS that there is an insufficient number of labour inspectors, and that the existing inspection staff is burdened by the quantity of work related to workers' claims in cases of employer bankruptcy, which prevents them from discharging their primary tasks in the fields of employment relations and occupational health and safety (OSH). The UATUC and NHS further note the likely imminent retirement of many labour inspectors, and that the lack of inspectors has a significant influence on the regularity and quality of inspections in the field of OSH and labour relations. The Committee notes the Government's statement that, as of 31 December 2016, the labour inspectorate employed a total of 226 labour inspectors and 10 other civil servants in positions related to IT and analytical activities for the improvement of the work carried out by the labour inspectorate and that by 31 December 2017, the number of labour inspectors had increased to 229. Nonetheless, the Government also identifies the insufficient number of labour inspectors as one of the difficulties encountered in the application of the Convention. ***The Committee requests the Government to provide further information regarding the measures taken or envisaged to ensure that a sufficient number of labour inspectors is appointed, in accordance with Article 10 of Convention No. 81 and Article 14 of Convention No. 129, and that existing labour inspectors' additional duties do not interfere with the effective discharge of their primary duties.***

Articles 5(a), 17 and 18 of Convention No. 81 and Articles 12, 22(1) and 24 of Convention No. 129. Institution of legal proceedings and enforcement of adequate penalties. In its previous comments, the Committee noted a decrease in the rate of cases in which the legal proceedings initiated by labour inspectors were declared inadmissible by the misdemeanour courts due to the expiration of the statute of limitations (from 58 to 36.5 per cent), due primarily to the adoption of the Misdemeanours Act modifying the applicable time limits. The Committee notes an absence of information in response to its previous request regarding additional measures to give effect to *Articles 5(a), 17 and 18* of Convention No. 81. ***Recalling the importance of cooperation between the labour inspection system and the justice system, the Committee requests the Government to provide information regarding any measures taken or envisaged to accelerate the examination of cases referred by labour inspectors to the courts and to ensure effective enforcement of adequate and sufficiently dissuasive penalties, including detailed information on the progress achieved or the difficulties encountered as well as statistical information on the number of legal proceedings initiated by labour inspectors that were declared inadmissible, and the main reasons for their inadmissibility.***

The Committee is raising other matters in a request addressed directly to the Government.

Dominica

Labour Inspection Convention, 1947 (No. 81) (ratification: 1983)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Articles 3, 6, 7, 10 and 16 of the Convention. Numbers, conditions of service and functions of labour inspection staff. Number of labour inspection visits. The Committee notes from the Government's report that the Labour Department cannot increase its staff and that inspectors operate in all areas of labour administration. The Government also declares that every attempt is made to ensure that inspectors are professional in their conduct. ***The Committee requests once again the Government to indicate the criteria and process for the recruitment of labour inspectors, and to specify the training activities provided to them upon their entry into service and in the course of employment. Please also indicate how it is ensured that the conditions of***

remuneration and career development of labour inspectors reflect the importance and specificities of their duties, and take into account personal merit.

The Committee asks the Government to provide information on the time and resources spent on mediation/conciliation of industrial disputes in relation to their primary duties of inspection established under this Convention. It asks the Government to take the necessary measures to ensure that, in accordance with Article 3(2), any duties which may be entrusted to labour inspectors in addition to their primary functions shall not be such as to interfere with the effective discharge of the latter. It also asks the Government to provide information on the measures taken to ensure that all workplaces are inspected as often and as thoroughly as necessary in line with Article 16 of the Convention.

Article 15. Duty of confidentiality. Referring to the Committee's previous comments on this issue, the Committee notes from the Government's report that there has not been any change in legislation to give effect to this Article of the Convention and that the issue is to be addressed by the Industrial Relations Advisory Committee. The Government also reports that the department and labour inspectorate have always maintained strict confidentiality. *The Committee once again requests the Government to take steps to ensure that the legislation is supplemented so as to give full effect to Article 15 of the Convention and to keep the Office informed of all progress in this respect and to send copies of any relevant draft or final texts.*

Articles 5(a), 17, 18, 20 and 21. Cooperation with the justice system and enforcement of adequate penalties. Publication and content of an annual report. The Committee notes from the Government's report that steps will be taken to improve the quality of the annual report on inspection services. *The Committee hopes that the Government will make every effort to ensure that an annual report on the work of the labour inspection services is elaborated and published and that it contains information on all the items listed in Article 21 of the Convention, notably, statistics of inspection visits, violations and penalties imposed as well as industrial accidents and cases of occupational disease.* The Committee draws the Government's attention in this regard to the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81) as to the type of information that should be included in the annual labour inspection reports.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Ghana

Labour Inspection Convention, 1947 (No. 81) (ratification: 1959)

Articles 10, 11 and 16 of the Convention. Human resources and material means of the labour inspectorate and coverage of workplaces. The Committee previously noted the Government's reference to a shortage of human resources and material means, including vehicles, as well as to its commitment to addressing these issues.

The Committee notes that the Government indicates in its report that there are 171 inspection staff. It once again indicates that it plans to hire more staff to strengthen the labour inspection system, which will enable the Labour Department to conduct more inspections and improve the coverage of the establishments. The Committee also notes that, according to the Statistical Reports of the Ministry of Employment and Labour Relations for the years 2014, 2015 and 2016, published on the Ministry's website, the number of labour inspections undertaken by the Labour Department were 243 in 2014, 357 in 2015 and 305 in 2016. The number of inspections undertaken by the Department of Factories Inspectorate on occupational safety and health in registered workplaces declined from 2,405 in 2014, to 1,974 in 2015 and 1,715 in 2016, with decreases in almost every sector. The Committee notes that according to the Statistical Report of 2016, there were 57,925 registered establishments in 2016. The Government states that challenges include an insufficient number of inspectors and vehicles to conduct efficient inspections of workplaces. It further notes the statement in Ghana's National Employment Policy, published in 2015, that despite efforts to revamp the labour administration system, challenges persist, including ineffective labour inspection, inadequate staff for labour administration institutions and inadequate logistics for inspection and enforcement. *The Committee requests the Government to provide information on the concrete steps taken to address the challenges identified, to ensure that the labour inspection services have at their disposal an adequate number of labour inspectors and the required material resources to enable them to effectively carry out their duties, including by ensuring the allocation of the financial resources necessary. It requests the Government to continue to provide information on the number of inspections undertaken by the Labour Department and the Department of Factories Inspectorate, as well as the number of inspectors in each Department. Lastly, the Committee requests the Government to provide information concerning the reasons for the decline in the number of inspections undertaken by the Department of Factories Inspectorate between 2014 and 2016, and the measures taken to ensure that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the legal provisions.*

Articles 17, 18 and 21(e). Enforcement of the legal provisions relating to the conditions of work and the protection of workers. The Committee previously requested information on the application of penalties, as well as concerning the revision of penalties for labour law provisions. The Committee notes in this regard that the Government once again refers to its commitment to dialogue, persuasion and diplomacy, but also states that the legal provisions in the Labour Act are fully applied so as to sanction any employer who violates its provisions. The Committee also observes that the penalties in the Labour Act are defined in terms of "penalty units" that are defined pursuant to the Fines (Penalty Units) Act of 2000. *The Committee urges the Government to provide statistical information in its next report relating to the number of violations detected and the number and amount of fines imposed pursuant to the Labour Act. In addition, the Committee requests the Government to provide information on any revision of "penalty units" with a view to ensuring that there are adequate penalties for violations of the legal provisions enforceable by labour inspectors.*

The Committee is raising other matters in a request addressed directly to the Government.

Grenada

Labour Inspection Convention, 1947 (No. 81) (ratification: 1979)

The Committee notes with **regret** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

Articles 20 and 21 of the Convention. Establishment, publication and communication to the ILO of annual inspection reports. In its previous comments, the Committee noted that despite its reiterated comments on this subject, no annual labour inspection reports had been communicated to the ILO since 1995. It notes that the Government underlines the importance of establishing, publishing and transmitting annual labour inspection reports, but that it indicates that the annual reports as currently prepared do not contain all of the subjects as required under *Article 21*. **The Committee urges the Government to indicate the measures adopted or envisaged to ensure that annual inspection reports are published and transmitted to the ILO in accordance with the requirements of Articles 20 and 21. The Committee reminds the Government, once again, that it may avail itself of technical assistance for this purpose.**

The Committee requests the Government in any event to provide statistical information that is as detailed as possible on the activities of the labour inspection services (industrial and commercial workplaces liable to inspection, number of inspections, infringements detected and the legal provisions to which they relate, penalties applied, number of industrial accidents and cases of occupational disease, etc.) to enable the Committee to make an informed assessment on the application of the Convention in practice.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Guinea-Bissau

Labour Inspection Convention, 1947 (No. 81) (ratification: 1977)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Articles 3(1), 7(3), 10, 11, 14 and 16 of the Convention. Functioning of the labour inspection system. The Committee notes that the application of the Convention faces significant and persistent challenges of a financial and material nature. It notes, for instance, that there are too few inspectors and that the General Labour and Social Security Inspectorate has inadequate means of transport. The Committee is also led to believe that the Government is not in a position to provide labour inspectors with adequate training for the performance of their duties, in accordance with *Article 7(3)* of the Convention. It notes, however, that the inspectors benefited from a number of training activities under the subregion's technical cooperation framework pertaining to labour inspection structures and under the Community of Portuguese-speaking countries (CPLP). The Government also refers to difficulties inherent in gathering reliable data on industrial accidents and cases of occupational diseases, which may be attributed to the under-reporting of workers themselves. The Government is also trying to create conditions that will enable it to send on a regular basis the information available on each of the questions listed under *Article 21* and in the format stipulated under *Article 20*, but it is encountering difficulties of various kinds and would therefore require the ILO's technical assistance for this purpose. **The Committee asks the Government to submit a formal request to the ILO for technical assistance with a view to drafting and publishing an annual inspection report, as provided for under Articles 20 and 21 of the Convention, and to envisage extending this request to the collection and recording of statistical information on industrial accidents and cases of occupational diseases, and to the establishment of a system to assess the labour inspection services, with a view to determining the measures to be introduced to improve its efficiency. The Committee requests the Government to submit in its next report information on any developments in this area.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Haiti

Labour Inspection Convention, 1947 (No. 81) (ratification: 1952)

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 30 August 2017 and 29 August 2018. The Committee notes with **deep concern** that the Government's report has not been received. While it is therefore bound to repeat its previous comments initially made in 2012, the Committee notes the Government's communication received on 30 October 2018 in which it informs the Committee that, further to the conclusions of the Conference Committee on the Application of Standards, it has requested ILO technical assistance with a view to helping in the presentation of the reports due, strengthening the inspection services, consolidating social dialogue for the continuation of social reforms, and addressing the other points raised by the Conference Committee. The Government adds that it hopes to receive the requested assistance before the next session of the International Labour Conference. **The Committee hopes that this technical assistance will be provided without delay and that it will give rise to timely delivery of all outstanding reports. It also requests the Government to send its comments on the observations of the CTSP of 2016, 2017 and 2018.**

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 31 August 2016.

The Committee notes that, according to the CTSP, although the Government receives ILO assistance to strengthen the labour inspectorate, the Government shows a lack of will to make the labour inspectorate operational. The CTSP reiterates its

previous observations concerning: (i) the lack of inspections in sectors other than the textile industry, such as the hotel industry, the restaurant industry, petrol stations and construction; the precarious material resources made available to labour inspectors, particularly the transport facilities necessary for the performance of their duties; (iii) the recruitment of labour inspectors on the basis of “cronyism”; (iv) the inadequate academic level of labour inspectors; and (v) their low remuneration, which is often paid late, making labour inspectors vulnerable to corruption. The CTSP adds that no steps have been taken to set up a database containing labour statistics as a basis for the development of policies and actions. The trade union further indicates that inspectors are at risk of being transferred, dismissed and penalized if they take decisions that run counter to the interests of certain employers. **The Committee requests the Government to send its comments on this matter.**

Articles 3, 12, 13, 15, 16, 17 and 18 of the Convention. Discharge of primary duties of the labour inspectorate. Further to the Committee’s previous comments, the ITUC [International Trade Union Confederation] stresses the need to reform the Labour Code, especially section 411, which stipulates that labour inspectors shall provide employers and workers with technical information and advice “where necessary”.

The Committee notes the Government’s proposal to modify the expression “where necessary” in section 411 as part of the revision of the Labour Code, which is due to take place with technical support from the ILO, with a view to harmonizing the Labour Code with the international labour Conventions ratified by Haiti. The Government also emphasizes that, despite the wording of section 411 of the Labour Code, inspections have been conducted regularly over the last three years in Port-au-Prince and certain departments of the country.

The Committee recalls that the role of the labour inspectorate must not be limited to reacting to requests from workers or employers, and that inspections of workplaces, whether scheduled or not, should be conducted as often and as thoroughly as necessary throughout the country (*Article 16*), in order to enable the labour inspectorate to discharge its primary duties, as provided for in *Article 3(1)*. The Committee notes that the effectiveness of the inspection system and the credibility of inspectors for employers and workers depends largely on the manner in which inspectors exercise their prerogatives (right to enter workplaces, direct or indirect powers of injunction, reporting infringements, initiating proceedings, etc.) and meet their obligations (such as displaying probity and observing confidentiality), as established by *Articles 3, 12, 13, 15, 17 and 18* of the Convention.

The Committee requests the Government to keep the Office informed of any progress made regarding the revision of section 411 of the Labour Code, so that the provision of technical information and advice to employers and workers is recognized as a permanent function of the labour inspectorate in conformity with Article 3(1)(b).

The Committee also requests the Government to supply detailed information together with statistics on the planning and implementation of systematic inspections throughout the country, including in the export processing zones, and also their results (identification of infringements or irregularities, technical advice and information, observations, injunctions, notices of infringement, legal proceedings initiated or recommended, penalties imposed and enforced), and to indicate any obstacles to the full application in practice of the prerogatives and obligations of labour inspectors.

Finally, the Committee requests the Government to send a copy of the report form on violations and of some of such reports which have already been completed.

Articles 6, 8, 10 and 11. Human and material resources available to the labour inspectorate. The Government refers to the obstacles encountered in the application in practice of the Convention which, according to its report, are numerous: inadequate numbers of labour inspectors in view of the number, nature and size of workplaces liable to inspection and the complexity of the provisions of the Labour Code in force; lack of logistical resources; insufficient budget resources for paying reasonable salaries to labour inspectors; lack of mobile resources to facilitate the transportation of inspectors and enable them to fully perform their duties; premises inaccessible to certain persons (especially persons with disabilities).

According to the ITUC, the labour inspection services continue to lack the resources to be fully operational and show deficiencies in terms of supervision on the ground.

The Committee requests the Government to supply detailed information on the measures taken or envisaged, including having recourse to international financial aid, to obtain the necessary funds to build the capacities of the labour inspection system, especially by increasing the number of labour inspectors and the material and logistical resources available to the labour inspectorate.

The Committee also refers to paragraph 209 of its 2006 General Survey on labour inspection. While being fully aware of the problems faced by the Government, it is bound to emphasize the importance that it places on the treatment of labour inspectors in a way that reflects the importance and specific features of their duties and takes account of personal merit. **The Committee requests the Government to indicate all the measures taken or envisaged to improve the status and conditions of service of inspectors, so that they correspond to the conditions of public officials performing comparable tasks, such as tax inspectors.**

Articles 5(a) and 21(e). Effective cooperation with other government departments and with employers’ and workers’ organizations. **The Committee requests the Government to provide details of this cooperation and its impact on the effectiveness of the action of the labour inspectorate, with a view to the application of the legal provisions relating to conditions of work and the protection of workers while engaged in their work.**

The Committee requests the Government to provide statistics on the follow-up to reports of infringements submitted by the labour inspectorate to the judicial bodies and to state whether measures have been taken or envisaged to strengthen cooperation between the labour inspectorate and the justice system, for example by the creation of a system for the registration of judicial decisions accessible to the labour inspectorate, to enable the central authority to use this information to achieve its objectives, and to include them in the annual report, in accordance with Article 21(e) of the Convention.

The Committee also requests the Government to indicate the measures taken or envisaged to strengthen collaboration between the labour inspectorate and employers’ and workers’ organizations (Article 5(b)), including in the construction sector, which, in the opinion of the Government constitutes a priority for the revival of the country. The Committee recalls the guidance given in Paragraphs 4–7 of the Labour Inspection Recommendation, 1947 (No. 81), regarding collaboration between employers and workers in relation to safety and health.

Article 7(3). Training of inspectors. Further to the Committee’s comments on this subject, the ITUC notes certain gaps in the area of training, whereas the Government refers to a number of training courses in 2008 and 2011 with the support of the ILO and international donors. **The Committee requests the Government to indicate the measures taken or envisaged to develop a training strategy, and to provide information on the frequency, content and duration of training given to labour inspectors,**

and also on the number of participants and the impact of this training on the effective performance of labour inspection duties.

Article 14. Notification and registration of industrial accidents and cases of occupational disease. The Committee notes the comments of the ITUC on the need to provide data on this subject and the information provided by the Government according to which industrial accidents are notified to the general inspectorate of OFATMA. **The Committee requests the Government to describe in detail the system for the notification of industrial accidents and cases of occupational disease and to indicate the measures taken or envisaged following the earthquake, in order to collect and supply statistics on this subject, including in the construction sector.**

The Committee urges the Government, as a preliminary stage in the preparation of an annual inspection report and in order to evaluate the situation of the labour inspection services in terms of their needs, to compile an inventory and register of industrial and commercial workplaces liable to inspection (number, activity, size and geographical situation) and of the workers employed in them (number and categories), and to keep the Office informed of any progress made in this field.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Hungary

Labour Inspection Convention, 1947 (No. 81) (ratification: 1994)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1994)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Additional functions entrusted to labour inspectors. The Committee previously noted that combating illegal employment was a priority for labour inspection, and that the labour inspection services were regularly associated in joint inspections to eradicate illegal migration, among others, in cooperation with the police and the custom authorities. In this respect, the Committee notes the Government's reference to the Labour Inspection Act, which entrusts labour inspectors, among other things, with the control of the work and residence permits of foreign workers, and the notification to the immigration police of any decision concerning the infringement of the provisions on the employment of foreign workers (sections 3(1)(i) and 7/A(7) of the Labour Inspection Act).

The Committee once again notes that the Government has not provided the information requested on the role of labour inspectors in granting foreign workers in an irregular situation their due rights resulting from their employment relationship. The Committee recalls that, pursuant to *Article 3(1) and (2) of Convention No. 81 and Article 6 of Convention No. 129*, the functions of the system of labour inspection shall be to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, and any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. In this respect it stated in its 2006 General Survey, *Labour inspection*, paragraph 78, that any function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. In this respect, the Committee also recalls that in its 2017 General Survey on certain occupational safety and health instruments, it indicated that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as the loss of their job or expulsion from the country (paragraph 452) or that their complaint will not be kept confidential. **The Committee requests the Government to take measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors to ensure the protection of workers in accordance with labour inspectors' primary duties as provided for in Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. It also once again requests the Government to indicate the manner in which the labour inspectorate discharges its primary duties in ensuring the enforcement of employers' obligations with regard to any statutory rights workers may have in an irregular situation for the period of their effective employment relationship. It urges the Government to provide information on the number of cases in which workers found to be in an irregular situation have been granted their due rights, such as the payment of outstanding wages or social security benefits. In addition, the Committee requests the Government to provide information on the manner in which it ensures that labour inspectors treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions.**

Articles 10 and 16 of Convention No. 81 and Articles 15 and 21 of Convention No. 129. Number of labour inspectors and effectiveness of the labour inspection system. The Committee previously noted a significant decrease in the number of labour inspectors from 696 to 401 between 2008 and 2013. In this respect, the Committee noted that the comments of the workers' representatives of the Tripartite National ILO Council (included in the Government's reports) had indicated that this decrease had compromised the efficiency of inspections as shown by the increase in the number of industrial accidents and violations detected in recent years. On the other hand, the Committee noted the Government's reply to these comments indicating that the increased number of violations detected was in fact a result of the enhanced

efficiency of inspections due to the establishment of labour inspection priorities which were determined by annual labour inspection plans (focused on high risk sectors).

The Committee notes with **concern** from the statistics provided in the Government's report that the number of labour inspectors continued to decrease to 393 labour inspectors (as of May 2017), and that the number of occupational accidents increased between 2010 and 2016 from 19,948 per year to 23,027. The Committee recalls from its 2017 General Survey on certain occupational safety and health instruments, paragraph 441, that focusing inspections on the most hazardous workplaces must not diminish the overall resource commitment of the labour inspectorate. **Noting the significant decline in the number of inspectors since 2008, as well as the increase in the number of occupational accidents reported, the Committee requests the Government to take the necessary measures to ensure that the number of labour inspections are adequate to ensure the effective protection of workers. The Committee requests the Government to continue to provide statistical information on the number of labour inspectors, inspection visits, violations detected and penalties imposed. It also requests the Government to continue to provide information on the number of occupational accidents, and to provide an explanation for their increased number in recent years.**

The Committee is raising other matters in a request addressed directly to the Government.

India

Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)

The Committee notes the observations made by the Centre of Indian Trade Unions (CITU) received on 14 March 2018.

Articles 2, 4 and 23 of the Convention. Labour inspection in special economic zones (SEZs). In its previous comments, the Committee noted the Government's indication that very few inspections had been carried out in SEZs. It also noted that the Development Commissioners, who are responsible for attracting investment, continued to exercise inspection powers in some SEZs. In this respect, the Committee notes the observations made by the CITU to the Conference Committee on the Application of Standards (CAS) in 2017 and again by the CITU in its observations made in March 2018 that there is virtually no inspection system in SEZs. The trade union adds that despite the absence of violations reported, there are violations of all basic labour laws in SEZs and that there has been no improvement in the situation since the discussion in the CAS in June 2017.

The Committee notes the explanations provided by the Government, in its report in response to the Committee's request on the authorities responsible for inspections, that there are currently seven SEZ zones. The Government states that in some cases, the SEZs cover several states and that the situation with regard to inspections may differ within one SEZ, depending on the state where the enterprise is physically located. The Government adds that inspection powers are assumed by Development Commissioners in two SEZs, namely Visakhapatnam and Mumbai Seepz (except with regard to the supervision of the Factories Act including its occupational safety and health provisions). In five SEZs (Noida, Cochin, Madras, Falta and Kandla) inspection powers have not been delegated to the Development Commissioners (except in one of the ten states in which operations of the SEZ Noida take place). The Committee notes the Government's indication that no powers were delegated in relation to laws that are administered centrally. The Committee also notes the information provided by the Government for five of the seven SEZs (except for Cochin and Falda), including information on the number of enterprises and workers. While the Committee notes that these statistics are more detailed than those provided by the Government in recent years, they still do not enable the Committee to make an informed assessment of the protection of workers in these zones. Moreover, the Committee notes that no information is available (or no penalties were imposed) in most of the SEZs for which statistics were provided (in Kandla two criminal prosecutions and prison terms were reported). **The Committee once again requests the Government, in line with the 2017 conclusions of the CAS, to ensure that effective labour inspections are conducted in all of the existing SEZs. In this respect, it once again requests the Government to provide detailed statistical information on labour inspections in all SEZs, including on the number of enterprises and workers in each SEZ, the number of routine and unannounced visits, the number and nature of offences reported, the number of penalties imposed, the amounts of fines imposed and collected, and information on criminal prosecutions, if any.**

Articles 10 and 11. Material means and human resources at the central and state levels. The Committee recalls the 2017 conclusions of the CAS concerning the need to increase the resources at the disposal of the central and state government inspectorates. The Committee notes the statistics provided by the Government in its report on the number of labour inspectors at the central and state levels, which for the state level is the same information that was provided by the Government in 2017 to the CAS and does not reflect any additional recruitments. Concerning the status of labour inspectors, the Committee notes the Government's clarification, in reply to the Committee's request, that the possibility to employ staff on a temporary basis as labour inspectors only concerns the deployment of public servants from other Government services. **The Committee once again requests the Government to increase the resources at the disposal of the central and state government inspectorates, and to continue to provide information on the number of labour inspectors at the central level and in all states. Because the Government has only provided general information in this respect, the Committee also once again requests the Government to provide more detailed information on the available**

material resources and transport facilities (such as number of vehicles) of the labour inspection services at the central and state levels.

Articles 12 and 17. Free initiative of labour inspectors to enter workplaces without prior notice, and discretion to initiate legal proceedings without previous warning. Code on the Wages Bill, the Occupational Safety and Health and Working Conditions Bill, and ongoing legislative reform The Committee previously noted that the Code on Wages, 2017 Bill does not explicitly refer to the principles contained in *Article 12(1)(a)* and *(b)*, but provides that the governments at the state levels may lay down separate inspection schemes (including the generation of a web-based inspection schedule). It also previously noted that the Code on Wages Bill renames labour inspectors as “facilitators” and requires inspectors to give previous warning and provide additional time to rectify a violation before any penal procedures may be initiated. The Committee notes the Government’s indication, in response to the Committee’s request, that several tripartite meetings were held in the drafting process of the Code on Wages Bill. The Government further emphasizes that the Code on Wages Bill does not curtail inspection powers where inspections are necessary, and that in the event of complaints made or indicators of the existence of labour law violations, labour inspectors will continue to have full discretion to undertake inspections without prior notice and initiate the required actions. The Government indicates that the Code on Wages Bill is currently before the Parliamentary Standing Committee.

The Committee further notes that the OSH and Working Conditions Bill, published on the website of the Ministry of Labour and Employment in March 2018, also renames labour inspectors as “facilitators” (section 34(1)), and provides that they conduct inspections, including web-based inspections (as prescribed by the governments at the state levels (section 34(2))). The Committee also notes that facilitators have the power to prosecute, conduct or defend before a court any complaint or other proceeding arising under the OSH and Working Conditions Code, or the rules and regulations made thereunder (section 35(xii)), and to exercise such powers as may be prescribed (section 35(xiii)). However, the Bill is silent with regard to the powers of labour inspectors to initiate legal proceedings against persons who violate or neglect to observe legal provisions enforceable by labour inspectors. Moreover, the OSH and Working Conditions Bill requires inspectors to give prior notice of at least three days before conducting inspections in mines, except in dangerous situations (section 39).

With reference to its 2006 General Survey, *Labour inspection*, paragraph 263, the Committee recalls that unannounced visits enable the inspector to enter the inspected premises without warning the employer or his or her representative in advance, especially in cases where the employer may be expected to attempt to conceal a violation, by changing the usual conditions of work, preventing a witness from being present or making it impossible to carry out an inspection. The Committee also recalls that under *Article 17*, persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal or administrative proceedings without previous warning, and that the possibility of giving previous notice to carry out remedial or preventive measures may be provided for in national laws or regulations by way of exception. ***Recalling that the CAS requested the Government to take measures to ensure that any legislation developed was in conformity with the Convention, the Committee requests the Government to take the necessary measures to ensure that the Code on Wages and the OSH and Working Conditions Act explicitly allow labour inspectors on their own initiative to enter workplaces without prior notice, not limited to situations where complaints have been made or indicators exist for labour law violations, in conformity with Article 12(1)(a) and (b) of the Convention. It also requests the Government to ensure that the Code on Wages and the OSH and Working Conditions Act will guarantee the discretion of labour inspectors to initiate prompt legal or administrative proceedings without previous warning, or to order remedial measures and give warnings instead of instituting or recommending proceedings, where the situation so requires (Article 17 of the Convention).***

Effect given to the above-mentioned principles in practice. Statistics on labour inspections without previous notice, and the initiation of legal proceedings without previous warning. The Committee notes the information provided by the Government, in response to its request, on the number of violations detected and the relevant prosecutions initiated at the central level and 36 state/union territories. However, the Committee also notes that the Government has not provided the requested information on those cases where a prior warning had been issued before the initiation of legal proceedings and where immediate enforcement action has been taken. ***The Committee therefore once again requests the Government, to provide information not only on the total number of violations detected and the number of legal proceedings initiated by labour inspectors, but to disaggregate this information between those cases where a prior warning had been issued beforehand and where immediate enforcement action had been implemented. The Committee also requests the Government to provide information on the total number of inspections undertaken, distinguishing those inspections that were undertaken with and without prior notice.***

Articles 4, 20 and 21. Availability of statistical information on the activities of the labour inspection services at the central and state levels. Availability of statistics in specific sectors. The Committee notes that, once again, no annual report on the work of the labour inspection services has been communicated to the Office, although it notes that the Government refers to the reports published by the Labour Bureau (a Department of the Ministry of Labour and Employment) in 2013 and 2014. The Committee takes due note of the information provided by the Government concerning the number of inspections undertaken, violations detected and prosecutions initiated. It notes that there are still no statistics on the application of the labour legislation in the information technology (IT) and IT-enabled services (ITES) sectors. The Committee recalls from the information submitted by the Government to the CAS in 2017 that, in view of the

federal structure of the country and the sovereignty of the states, there is no statutory mechanism for the states to furnish data to the central Government, and that relevant information is provided by the states on a voluntary basis.

The Committee notes the reiterated indications made by the Government concerning a project for the strengthening and modernization of the collection of statistics by the Labour Bureau. This project is planned to include an online-reporting system to enable the improved collection and compilation of statistics, including data from the states. The Committee also notes the Government's indication, in response to the Committee's request, that enterprises are required to maintain registers and provide information about their activities, and that there are efforts to unify reporting forms and registers. However, the Committee notes that the Government does not provide the requested information on the maintenance of workplace registers at the central and state levels. ***The Committee once again urges the Government to take the necessary measures to ensure that the central authority, at the central level or the state levels, publishes and submits to the ILO annual reports on labour inspection activities containing all the information required by Article 21. The Committee encourages the Government to pursue its efforts towards the establishment of registers of workplaces at the central and state levels and the computerization and modernization of the data collection system, and to provide detailed information on any progress made in this respect. In this regard, the Committee also once again requests the Government to provide detailed information on the progress made with respect to measures taken to improve the data collection system enabling the registration of data in all sectors.***

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2019.]

Indonesia

Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)

Articles 1, 4, 10 and 11 of the Convention. Impact of decentralization and the effective functioning of the labour inspection system. Number of labour inspectors and material means placed at their disposal. In its previous comments, the Committee noted that one of the results of the decentralization of the labour inspection system was the unequal allocation of financial resources among local labour inspection services. The Committee notes the Government's indication in its report that, based on necessity and the lack of manpower, local civil servants may follow basic training on labour inspection to be deployed in the relevant area. The Committee also notes that, according to information provided by the ILO Country Office in Jakarta, 108 labour inspectors were appointed from existing civil servants in 2018. The Government also indicates that the Ministry of Manpower provides assistance to provincial government officials, which includes the testing of equipment for occupational safety and health (OSH) purposes. The Committee notes that while the Government's report, submitted in 2017, places the number of labour inspectors at 1,987, the Directorate-General of Labour Inspection and OSH Development, in its report entitled "Strategy for Strengthening Labour Inspection in Indonesia", indicates that the number of labour inspectors has declined over the past four years from 1,927 in 2016 to 1,574 in 2018, and that the budget allocation for labour inspection has decreased from year to year. That report further identified the need for additional facilities and infrastructure for labour inspectors, including adding new means of transportation and offices with adequate equipment. ***Recalling that labour inspectors must be appointed in sufficient numbers to secure the effective discharge of their duties, the Committee urges the Government to take the necessary measures to ensure that labour inspectors are appointed in sufficient numbers at all levels (national, provincial and district/city), in accordance with Article 10 of the Convention. It requests the Government to continue to provide information on the total number and geographical distribution of appointed labour inspectors (disaggregated by gender), including identifying the number of inspectors recruited from existing civil servants, and the allocation of resources to labour inspection offices by the provincial and city/district levels of government. The Committee also requests the Government to take measures to improve the material conditions of work of labour inspectors in terms of offices, equipment and transport facilities, in accordance with Article 11 of the Convention, and to provide further information regarding measures taken or envisaged in this regard.***

Article 6. Conditions of service of labour inspectors. The Committee notes the indication in the "Strategy for Strengthening Labour Inspection in Indonesia" report that, in addition to limited training and professional development opportunities, the low levels of remuneration do not encourage a professional inspectorate. ***The Committee requests the Government to take the necessary measures to ensure that the inspection staff is composed of public officials whose conditions of service are such that they are assured the stability of employment, in accordance with Article 6 of the Convention. It requests the Government to provide further information in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Kyrgyzstan

Labour Inspection Convention, 1947 (No. 81) (ratification: 2000)

Articles 12, 16, 17 and 18 of the Convention. Limitations and restrictions of labour inspection. Effective enforcement of penalties for labour law provisions. The Committee notes that labour inspections, just as a number of

other public inspections, are governed by the Law No. 72 of 2007 (as amended) on the conduct of inspections in enterprises. The Committee notes with **concern** that the Law provides for various limitations on labour inspection powers and the undertaking of labour inspections, including restrictions relating to: (i) the power to undertake labour inspections without prior notice (scheduled inspection visits have to be notified at least ten days prior to the inspection (section 6(6)); (ii) the free initiative of labour inspectors (labour inspections require a formal authorization, in coordination with the body for the development of entrepreneurship (section 12(3)); (iii) the frequency of labour inspections (e.g. scheduled inspections shall not be conducted more than once a year in workplaces considered to be at high risk, and not more than once every three years in workplaces with an average degree of risk (section 6(3)), and inspections shall not be conducted in new businesses within the first three years of their operation (section 6(8)); and (iv) the scope of inspections, particularly in terms of the issues that can be examined in the course of inspections (see sections 6(5) and 7(4)). The Committee further notes that inspectors risk being released from their office, pursuant to section 20 of Law No. 72 where a court does not confirm the existence of a violation as detected by an inspector, and where the court considers that this is the result of a fault of the labour inspector. The Committee recalls that *Article 12* of the Convention provides that labour inspectors shall be empowered to enter workplaces liable to inspection freely and without previous notice and to carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, and that *Article 16* provides for the undertaking of labour inspections as often as is necessary to ensure the effective application of the relevant legal provisions.

Concerning the effective enforcement of penalties for labour law violations, the Committee notes that section 11 of Law No. 72 provides that scheduled and unscheduled inspections are not intended to impose financial or other sanctions on businesses and that in the event of an observed violation of the legislation during a scheduled inspection, inspectors may issue a written warning to the enterprise requesting it to eliminate the violation within 30 days (three days if the violation impacts the safety or health), and following the expiry of this delay, may take measures to influence the enterprise, as provided for in legislation. In this regard, the Committee recalls that *Article 17* of the Convention provides that, with certain exceptions, legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning, and that it must be left to the discretion of labour inspectors to give a warning or advice instead of instituting or recommending proceedings. ***The Committee urges the Government to take the necessary measures to ensure that labour inspectors are empowered to make visits to workplaces liable to inspection without previous notice in conformity with Article 12(1)(a) of the Convention and that they are able to undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of the legal provisions, in conformity with Article 16 of the Convention. It further urges the Government to take the necessary measures to ensure that labour inspectors are able to initiate or recommend immediate legal proceedings without prior warning, where required, in conformity with Article 17 of the Convention.***

Articles 20 and 21. Annual labour inspection report. The Committee notes with **regret** that the Government has never submitted an annual report on the work of the labour inspection activities, and that the last statistical data on labour inspection activities were provided in the Government's report in 2004. ***The Committee once again requests the Government to provide information on the steps taken by the central labour inspection authority with a view to publishing and transmitting to the Office an annual report on the work of the inspection services under its control.***

The Committee is raising other matters in a request addressed directly to the Government.

Malawi

Labour Inspection (Agriculture) Convention, 1969 (No. 129) ***(ratification: 1971)***

The Committee notes with **regret** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

The Committee refers to its comments in relation to Articles 4, 6, 7, 10 and 11 of the Labour Inspection Convention, 1947 (No. 81), in so far as they concern the application of the corresponding Articles of the present Convention (*Articles 7, 8, 9, 14 and 15*). In addition, the Committee wishes to raise the following points.

Articles 26 and 27 of the Convention. Annual report on labour inspection (agriculture). The Committee notes the Government's statement that it intends to publish an annual report on the work of labour inspection in agriculture as part of its annual general report. ***The Committee encourages the Government to pursue its efforts to publish an annual labour inspection report on the work of the inspection services in agriculture and to take the necessary measures to ensure that the report contains the elements set out in Article 27, such as agricultural undertakings liable to inspection, number of inspections therein, violations detected and the legal provisions to which they relate.***

Application in practice. The Committee notes the statement in Malawi's Decent Work Country Programme (DWCP) 2011–16 that the agricultural sector is the mainstay of the economy, providing a livelihood to 80 per cent of the population. It also notes that one of the strategies for the DWCP is the improved implementation of the Convention, as well as Convention No. 81. ***Noting the significant proportion of workers engaged in the agricultural sector, the Committee requests the Government to provide information on the measures taken, within the framework of the DWCP 2011–16, to improve the implementation of the Convention in practice.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Republic of Moldova

Labour Inspection Convention, 1947 (No. 81) (ratification: 1996)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1997)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

The Committee notes the observations made by the International Trade Union Confederation (ITUC) in a communication received 1 September 2018 as well as the observations made by the National Confederation of Trade Unions of Moldova (CNSM) in its communications received on 4 January and 4 September 2018. In its observations of 4 September, the CNSM indicates that the report of the Government had not been submitted to it. The CNSM states that it is regrettable that no effective measures have so far been taken to adapt national legislation to the provisions of Conventions Nos 81 and 129, nor to give due consideration to the recommendations of the report of the tripartite committee set up to examine the representation alleging non observance by the Republic of Moldova of Convention No. 81 submitted under article 24 of the ILO Constitution, adopted by the Governing Body in March 2015 (GB.323/INS/11/6). *The Committee requests the Government to provide its comments in response to the observations of the CNSM.*

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes that in June 2018, the Committee on the Application of Standards (CAS) recommended that the Government take the necessary measures and appropriate reforms to bring their labour inspection services into line with the provisions of Conventions Nos 81 and 129 in law and practice, including enabling inspectors to carry out visits to workplaces liable to inspection without prior notice in order to guarantee adequate and effective supervision; ensure that inspections are proportionate to the legitimate aim pursued and are possible as often as necessary; and provide to this Committee, in writing, detailed and precise information related to a range of provisions and requirements under the two Conventions.

Article 4 of Convention No. 81 and Article 7 of Convention No. 129. Supervision and control of a central authority. Occupational safety and health. The Committee previously noted that Law No. 131 of 2012 on state control of entrepreneurial activities withdraws supervisory duties in the area of occupational safety and health (OSH) from the State Labour Inspectorate (SLI) and transfers it to ten other agencies. The Government indicated that OSH inspectors would be appointed in the respective agencies reporting both to their respective sectoral agencies as well as to the SLI.

The Committee notes that the CAS, in 2018, recalled that the labour inspectorate shall be placed under the supervision and control of a central authority.

The Committee notes the observations of the ITUC expressing concern about the fragmentation and weakening of the labour inspectorate by the introduction of Law No. 131, including the transfer of competencies in the area of OSH to ten different sectoral agencies. The ITUC states that the limitations introduced in Law No. 131 have weakened labour inspections, in contradiction with Conventions Nos 81 and 129, and have resulted in occupational accidents, including fatal ones. The Committee notes the Government's statement that the reform aims to ensure that a single enterprise is not inspected for the same type of activity or production process by different control bodies, thereby avoid the duplication of inspections. The Government indicates that the methodology on state control over entrepreneurial activities, based on risk analysis, is in the process of finalization, which will ensure the application of standard rules in the planning and implementation of OSH inspections for the ten sectoral agencies. This methodology will be monitored and coordinated by the SLI. The Government further refers to separate consultations held with the World Bank and the International Finance Corporation on the development of a regulatory framework on OSH. It states that an e-learning training system will be developed in 2019 to provide training to staff in the field of OSH, but that the system still requires financial means. The Government further indicates that until 23 May 2019, responsibility for the investigation of severe and fatal work-related accidents will remain with the SLI (by virtue of Law No. 79/2018). In addition, the Government indicates that most, but not all, of the sectoral agencies have territorial offices, and that inspectors with OSH responsibilities within the agencies will be provided with the status of civil servants. Further, the Government states that the ten sectoral agencies have been provided with forms for monthly reporting and that the Ministry of Health, Labour and Social Protection has requested that the agencies submit information on a weekly basis on the OSH activities carried out. The Committee observes, in this respect, that the annual labour inspection report of 2017, submitted by the Government, appears to only reflect the activities of the SLI and not the OSH activities of the sectoral agencies.

The Committee notes the Government's reference to the ILO mission which visited the country in December 2017, and notes the report of the mission subsequently transmitted to the Government. The Committee notes that according to the report of the ILO mission, the reform in the area of OSH has adversely impacted staff retention and the conditions of service of inspectors. The staff of some of the sectoral agencies do not have the status of civil servants and the transfer of 36 labour inspectors from the SLI to the agencies resulted in half of the transferred inspectors resigning. The report further

indicated that not all of the sectoral agencies with OSH responsibilities had yet been established, and they did not all have territorial or local units, which risked certain sectors and workers not being covered, or the offices not being easily accessible to concerned parties. *Recalling the importance of ensuring that organizational changes are carried out in conformity with the provisions of Conventions Nos 81 and 129, including Articles 4, 6, 9, 10, 11 and 16 of Convention No. 81 and Articles 7, 8, 11, 14, 15 and 21 of Convention No. 129, the Committee once again urges the Government to take all necessary measures in that respect. The Committee accordingly requests the Government to provide specific information on the concrete measures taken to ensure coordination among the various sectoral agencies, as well as between these agencies and the SLI, including further steps taken to ensure monitoring by the SLI of the implementation of OSH inspection visits. Furthermore, the Committee requests the Government to provide information on: (1) the number of inspectors appointed in the sectoral agencies as well as the number of inspections undertaken by them (Articles 10 and 16 of Convention No. 81 and Articles 14 and 21 of Convention No. 129); (2) how the independence and impartiality of inspectors appointed in the sectoral agencies is ensured in light of their reporting to the management of the sectoral agencies, and progress in providing all inspectors the status of civil servants (Article 6 of Convention No. 81 and Article 8 of Convention No. 129); (3) further steps taken to ensure that inspectors are adequately trained, including the establishment of an e-learning system; (4) the manner in which technical occupational safety and health experts and specialists are associated in the work of inspection (Article 9 of Convention No. 81 and Article 11 of Convention No. 129); and (5) the measures taken to provide such inspectors with suitably equipped local offices (including in sectors covered by agencies currently without local offices) as well as the transport facilities necessary for the performance of their duties (Article 11 of Convention No. 81 and Article 15 of Convention No. 129). It also requests the Government to indicate if all of the sectoral agencies to which inspection functions have been assigned have now been established, and to provide information on the monitoring of enterprises not covered by the respective sectoral agencies. Lastly, the Committee requests the Government to take measures to ensure that the activities of OSH inspectors in the sectoral agencies are separately reflected in the annual report on labour inspection, with respect to all subjects covered in Article 21 of Convention No. 81 and Article 27 of Convention No. 129.*

Articles 5(a), 17 and 18 of Convention No. 81 and Articles 12(1), 23 and 24 of Convention No. 129. Cooperation with the justice system and adequate penalties for violations of the legal provisions enforceable by labour inspectors. The Committee notes the Government's reference, in response to the Committee's request concerning the significant decline between 2012 and 2016 in the number of infringement reports submitted to courts (from 891 to 165 such reports), to the decrease in the number of entities subjected to inspection visits since the adoption of Law No. 131 in 2012. The Government also refers to the six-month moratorium on state inspection that took place in 2016. The Government indicates that in 2017, the Contravention Code was amended to introduce a section on violations of OSH provisions by the employer, and that it therefore expects the number of infringement reports produced by inspectors to increase in the future. In this respect, the Committee notes the information in the 2017 annual labour inspection report that there was a slight increase in the number of reports submitted to courts by inspectors, rising from 165 in 2016 to 197 in 2017. *The Committee requests the Government to continue to provide information on the number of infringement reports submitted to courts, indicating the number of such reports submitted by SLI inspectors and, separately, by OSH inspectors in the sectoral agencies. In addition, and noting an absence of information in response to the Committee's previous request, it once again requests the Government to provide information on the specific outcome of the infringement reports submitted to the courts, indicating the decision rendered and if any fine or other penalty was applied.*

Article 5(b) of Convention No. 81 and Article 13 of Convention No. 129. Collaboration of the labour inspection services with employers and workers or their representatives. The Committee notes the Government's indication that the functioning of the OSH system was subject to discussions within the National Commission for Collective Consultations and Negotiations. In this respect, the Committee notes the statement of the CNSM that in April 2018, the National Commission for Collective Consultations and Negotiations requested that the Ministry of Economy and Infrastructure create a working group with the participation of the competent institutions in the field of OSH and representatives of employers and the trade unions, with a view to identifying solutions for the existing issues relating to the functioning of the authorities in the field of OSH. The CNSM indicates that subsequently, no working group was established. *The Committee requests the Government to provide further information on the measures taken to promote effective dialogue with employers' and workers' organisations concerning labour inspection matters, including in particular dialogue on OSH concerns. It also requests the Government to provide information on the consultations undertaken in this respect in the National Commission for Collective Consultations and Negotiations, as well as the measures taken following such consultations.*

Article 12 of Convention No. 81 and Article 16 of Convention No. 129. Unannounced inspection visits. The Committee previously noted the application of Law No. 131 to the SLI (pursuant to paragraph 27 of its annex) and that section 18(1) of the Law provides that notice of a decision to carry out a control shall be sent to an enterprise at least five working days prior to the carrying out of the control. Section 18(2) provides that this notice is not provided in the case of an unannounced control, and section 19 outlines the specific limited circumstances under which an unannounced control can be undertaken irrespective of the established schedule of control. In this respect, the Committee noted the statement of the Government that there was a contradiction between the general rules for initiating an inspection (sections 14 and 20–

23 of Law No. 131) and *Article 12* of Convention No. 81, which would be removed as part of a proposed legislative package.

The Committee notes that the CAS recommended that the Government bring national legislation and practice into line with Conventions Nos 81 and 129 to enable labour inspectors to carry out visits to workplaces liable to inspection without prior notice in order to guarantee adequate and effective supervision. The Committee notes with **interest** that by virtue of Law No. 185 of 2017, section LXXXV, section 1(6) of Law No. 131 was amended to specifically exclude the application of section 18 of the Law to inspections undertaken in the area of labour relations and OSH. It further notes that section LXVII of Law No. 185 amends section 23⁷ of the OSH Law (No. 186/2008) to provide that labour inspectors in the field of OSH shall have the power to enter workplaces freely at any time of the day or night, without prior notification of the employer. ***The Committee requests the Government to provide information on the impact of these amendments on the undertaking of inspections without prior notice in practice, including information on the number of labour inspections undertaken with and without the provision of prior notice by inspectors identified separately for the SLI and the sectoral agencies as well as the violations found and sanctions imposed for both announced and unannounced inspections, again identified separately for the SLI and the sectoral agencies.***

Articles 15(c) and 16 of Convention No. 81 and Articles 20(c) and 21 of Convention No. 129. Confidentiality concerning the fact that an inspection visit was made in response to the receipt of a complaint. The Committee previously noted information from the Government which indicated that unscheduled inspections (which had been the only inspections undertaken without prior notice, by virtue of Law No. 131) were only undertaken as a result of a complaint or to conduct an investigation following an accident.

The Committee notes that the annual labour inspection report of 2017 once again refers to unscheduled inspections as those relating to complaints received or following an accident. The Committee notes, however, the Government's indication that the OSH Law (No. 186/2008) was amended in 2017 to provide for the obligation of labour inspectors to keep the confidentiality of any complaint received relating to OSH, as well as to not disclose to the employer the fact that an inspection was carried out as a result of a complaint. ***Noting the removal of the requirement to provide prior notice for regular inspections and referring to its comments above under Article 12, the Committee requests the Government to provide further information on any additional measures taken to ensure that a sufficient number of inspections without prior notice are undertaken to ensure that when inspections are conducted as a result of a complaint, the fact of the complaint as well as the identity of the complainant(s) is kept confidential. It requests the Government to indicate the number of inspections carried out without prior notice that were not undertaken as a result of a complaint or following the occurrence of an accident.***

Article 16 of Convention No. 81 and Article 21 of Convention No. 129. Undertaking of inspections as often as is necessary to ensure the effective application of the relevant legal provisions. The Committee previously noted that certain provisions of Law No. 131 were not compatible with *Article 16* of Convention No. 81 and *Article 21* of Convention No. 129 on the carrying out of inspections as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. Section 3(g) of Law No. 131 provides that inspections can only be carried out when other means to verify compliance with the law have been exhausted. Pursuant to section 14, control bodies are not entitled to perform a control of the same entity more than once in a calendar year, with the exception of unannounced inspections. Pursuant to sections 7 and 19, Law No. 131 permits unscheduled inspections only under certain specific conditions: they are subject to a delegation of control signed by the head authority vested with control functions; they cannot be carried out on the basis of unverified information and information received from anonymous sources; and they cannot be conducted when there are any other direct or indirect ways to obtain the information needed.

The Committee recalls that the CAS requested the Government, in June 2018, to ensure that inspections are proportionate to the legitimate aim pursued and are possible as often as necessary.

The Committee notes the observations by the ITUC that Law No. 131 substantially reduced the capacity of labour inspectorates by limiting the frequency of inspections in individual firms. The Committee also notes with **concern** the Government's statement in its report that following the adoption of Law No. 131, the number of entities subjected to inspection visits decreased annually. The Committee further notes the information in the 2017 annual labour inspection report that the number of unscheduled inspections (based on complaints or following an accident) was 545 in 2017, indicating a further decrease from the 1,317 unscheduled inspections undertaken in 2015 and 610 such inspections in 2016. Only ten follow-up inspections were undertaken in 2017, in comparison to 117 such inspections in 2015 and 42 in 2016. ***The Committee urges the Government to take the necessary measures to ensure that the national legislation is amended in the near future to allow for the undertaking of labour inspections as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, in conformity with Article 16 of Convention No. 81 and Article 21 of Convention No. 129.***

Article 17 of Convention No. 81 and Article 22 of Convention No. 129. Prompt legal or administrative proceedings. The Committee previously noted that section 4(1) of Law No. 131 provides that inspections during the first three years of the operation of a company/employer shall be of a consultative nature. Section 5(4) provides that, in such cases, in the event of minor violations, the sanctions provided for in the Administrative Offence Law or other laws may not be applied and section 5(5) provides that "restrictive measures" may not be applied in the event of severe violations.

The Committee notes the observations of the ITUC that Law No. 131 introduces a free pass for companies in the first three years of their operation by stipulating that sanctions cannot be applied in the case of minor offences for this period. The Committee once again recalls that *Article 17* of Convention No. 81 and *Article 22* of Convention No. 129 provide that, with certain exceptions (not directed at new operations), legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning, and that it must be left to the discretion of labour inspectors to give a warning or advice instead of instituting or recommending proceedings. ***Noting with regret the absence of a reply to its previous request, the Committee urges the Government to provide information on the measures taken to ensure that labour inspectors are able to initiate or recommend immediate legal proceedings. It once again requests the Government to provide information on the meaning of “restrictive measures” that are prohibited from being imposed under Law No. 131, the number and nature of severe violations detected by inspectors, the sanctions proposed by inspectors, and the penalties ultimately applied.***

Issues specifically concerning labour inspection in agriculture

Article 9(3) of Convention No. 129. Adequate training for labour inspectors in agriculture. The Committee notes the information provided by the Government, in response to the Committee’s previous request, that the National Agency for Food Safety is in charge of OSH inspections in agriculture. The Government indicates that labour inspectors at the Agency shall carry out inspections in cooperation with other field inspectors of the Agency. The Committee also notes the information provided by the Government on the measures planned to provide general OSH training to inspectors of the sectoral agencies. ***The Committee once again requests the Government to provide information on the training provided to labour inspectors that relates specifically to their duties in the agricultural sector, including the number of training programmes organized for inspectors of the National Agency for Food Safety with OSH functions, the subjects covered in these programmes and the number of inspectors who participated in these programmes.***

[The Government is asked to reply in full to the present comments in 2019.]

Pakistan

Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)

Articles 4(2), 5(a), 10 and 16 of the Convention. Supervision and control by central labour inspection authorities at the provincial levels. Number of labour inspectors and labour inspections. The Committee previously noted from the 2016 national occupational safety and health (OSH) profile published by the Ministry of Overseas Pakistanis and Human Resources Development that there continued to be a serious shortage of labour inspectors in relation to the number of workplaces liable to inspection. One of the recommendations in that profile concerned the creation of independent labour inspection authorities (separate from the provincial labour departments currently acting as central authorities) at the provincial levels with sufficient human and financial resources. The Committee notes the Government’s indication in its report, in reply to the Committee’s previous request, that there are currently no resources to set up independent labour inspection entities at the provincial levels, but that it is proposed to increase the number of labour inspectors in all provinces. The Government indicates that: (i) in Khyber Pakhtunkhwa, it is proposed to recruit 41 new inspection staff (in addition to the existing 108); (ii) in Punjab, it is recommended to increase the current number of labour inspectors from 71 to 95; (iii) in Balochistan, there are constant efforts to increase the number of labour inspectors every year; and (iv) in Sindh, it is proposed to improve the labour inspection system and increase the number of labour inspection visits in the area of OSH. ***The Committee once again urges the Government to pursue its efforts to increase the number of labour inspectors, to provide information on the resources committed and concrete measures taken in this respect, and to provide detailed information on the number of labour inspectors in each province. Recalling that the labour inspection system shall be placed under the supervision and control of a central authority, the Committee requests the Government to provide information on any measures taken or envisaged to strengthen the central authority, including measures to give effect to the recommendations in the national OSH profile to create independent labour inspection authorities.***

Coverage of workplaces by labour inspections. Private auditing firms. The Committee previously noted that during the discussion in the Conference Committee on the Application of Standards (CAS) in 2014, some speakers expressed concern with regard to the carrying out of third-party inspections by private auditing firms, and it subsequently noted the Government’s statement that the outsourcing of responsibilities towards those firms had to change. Concerning its previous request on the operation of private auditing firms, the Committee notes the Government’s indication that in Sindh, the applicable legislation does not permit the conduct of inspections by private auditing firms. The Committee also notes the Government’s statement that private and public auditing firms (which are accredited by the Pakistan National Accreditation Council (PNAC)) might be a useful means in strengthening the labour inspection system, and that the PNAC regularly conducts surveillance to ensure that these firms have the necessary capacity. In this respect, the Committee would once again like to emphasize that while private auditing may contribute to addressing compliance gaps, such initiatives may only be complementary to, but not replace, public labour inspection. ***Because the Government has not provided a response in this respect, the Committee once again requests the Government to provide information on whether the enterprises that have been subject to compliance assessments by private auditing firms continue to be liable to labour inspection in law and practice. It requests the Government to provide more detailed information on the***

surveillance measures undertaken by the PNAC to guarantee independent compliance assessments by these firms. The Committee also once again requests the Government to provide information on whether the Government promotes cooperation between the labour inspection services and the private auditing firms.

Article 12(1). Free access of labour inspectors to workplaces. The Committee previously noted with concern the Government's indication that since 2001, under administrative order, a letter is issued by the Chief Inspector of Factories (Director of Labour) to a factory prior to an inspection in the province of Sindh, which contains the date and time of the visit. It also noted the observations made by the Pakistan Workers' Federation (PWF) that labour inspections had practically been discontinued in the province of Sindh and that 2.3 million workers in that province suffered from occupational accidents every year. The Committee further noted from the 2016 OSH profile, that restrictions in the form of prior notice appeared to continue to be a problem in some areas in Punjab. In this respect, the Committee notes with **concern** that the 2017 Sindh Occupational Safety and Health Act does not give effect to *Article 12* of the Convention in that section 19 of that Act does not empower labour inspectors to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection, and that it restricts the conduct of inspection visits to "any reasonable time" (and only permits entry "at any time" in situations that are or may be dangerous). The Committee also notes the Government's statement that prior notice for inspection is in no way in conflict with free access. The Government states that there is no obligation in the legislation to issue notices prior to inspections; however it indicates that such notifications are useful means to ensure that employers are not "unduly harassed" and that the "high handedness" of labour inspectors may be curbed that way. The Committee would like to recall from its 2006 General Survey on *Labour inspection*, paragraph 263, the Committee indicated that unannounced visits enable the inspector to enter the inspected premises without warning the employer or his or her representative in advance, especially in cases where the employer may be expected to attempt to conceal a violation, by changing the usual conditions of work, preventing a witness from being present or making it impossible to carry out an inspection. ***The Committee urges the Government to take the necessary measures, in accordance with Article 12(1)(a) and (b), to empower labour inspectors to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection, and to enable the conduct of a sufficient number of unannounced inspection visits in practice in the province of Sindh. Noting that the Government has not provided the requested information, the Committee also once again requests the Government to take the necessary measures to ensure that labour inspectors in the province of Punjab are empowered to enter any workplace liable to inspection freely and without previous notice at any hour of the day or night. Further, noting that the Government has not provided the requested statistics, the Committee also once again requests the Government to provide information on the number of inspections conducted without prior notice in the provinces of Sindh and Punjab (compared with the numbers conducted with prior notice), including any violations detected, sanctions applied, and corrective measures taken as a result of inspections conducted without prior notice.***

Articles 17 and 18. Effective enforcement. The Committee previously noted the observations made by the PWF that the enforcement activities of the labour inspectorate were trivial. It also noted the trade union's reference to statistics showing that in Sindh, only 12 penalties were imposed in 2014, although there were 8,572 factories registered in that province. The Committee notes that the Government provides the requested statistical information, in response to the Committee's request, with regard to the province of Punjab (during the period of 2017–18), on the number of violations detected, the number of violations which resulted in prosecution and the value of fines imposed (10,515 inspections resulting in 16,139 prosecutions and 1,814,530 Pakistan rupees in fines (approximately US\$13,571)). The Committee notes with **regret**, however, that the Government does not provide the requested statistical information in relation to the other provinces. ***The Committee urges the Government to provide information in relation to each of the provinces on the number of violations detected, the corresponding number of violations which resulted in prosecution, and subsequent convictions, and both the number and average amount level of the fines imposed.***

Sufficiently dissuasive penalties. The Committee notes that the Government refers, in reply to the Committee's request for information on the progress made concerning the adoption of draft legislation providing for increased penalties in Balochistan, to two pieces of draft legislation pending approval by the new cabinet in that province. The Committee also notes from the information provided by the Government that there are no changes to the penalties provided for under the Mines Acts, 1923 in the provinces. However, the Committee notes that one of the recommendations during a meeting of the Chief Inspectors of Mines in June 2018 in the framework of the ILO project on Strengthening the Labour Inspection System in Pakistan, concerned the updating of the legislative framework governing the mining sector. ***The Committee requests the Government to continue to provide information on the progress made with respect to increasing the level of fines and other penalties in the legislation of the province of Balochistan, and to provide information on any changes made to the penalties for labour law violations provided for in the Mines Acts of each of the provinces.***

Article 18. Penalties for obstructing labour inspectors in the performance of their duties. The Committee previously noted that during the discussion in the CAS in 2014, several speakers indicated that penalties for the obstruction of labour inspectors in their duties were insufficient. In this respect, the Government previously noted that three provinces (Punjab, Khyber Pakhtunkhwa and Sindh) had revised their respective Factories Acts to increase the fines for obstructing the work of inspectors, and that it was also proposed to increase the relevant penalties in the Factories Act of Balochistan.

The Committee notes the information provided by the Government in response to its request that the increased fines for obstruction in Punjab (20,000 Pakistani Rupee, approximately US\$149) have already resulted in fewer instances of obstruction of labour inspectors, and that some instances of obstruction were penalized with fines. The Committee notes the Government's indication that it is not possible to provide disaggregated information on the obstruction of labour inspectors in Khyber Pakhtunkhwa, and the Committee observes that the Government has not provided any relevant information in relation to the provinces of Sindh and Balochistan. *The Committee requests the Government to continue to take measures to ensure that the legislation in the province of Balochistan provides for sufficiently dissuasive sanctions for the obstruction of labour inspectors in their duties. The Committee once again requests the Government to provide detailed information on the applicable penalties concerning cases of obstruction provided for in the Mines Acts in the provinces. Noting that the Government has provided general information in relation to one province, and no information in relation to the other provinces, the Committee also once again requests the Government to make every effort to provide information on cases relating to the obstruction of labour inspectors in their duties in practice, in relation to each of the provinces, including the specific number of instances of obstruction, the number of prosecutions undertaken, their outcome and the specific penalties applied (including the amount of fines imposed).*

Articles 20 and 21. Publication of an annual inspection report. The Committee notes that once again no annual report on the work of the labour inspection services has been communicated to the Office. It notes the Government's indication that the Ministry of Overseas Pakistanis and Human Resources Development is working on the compilation of the annual labour inspection report in coordination with the provinces, and that the report will be submitted once all the information is available. *The Committee urges the Government to pursue its efforts to ensure that the central labour inspection authority in each province publishes an annual labour inspection report, pursuant to Article 20, and that these reports are communicated to the ILO, either separately or in a compiled form, pursuant to Article 20(3). It also once again encourages the Government to take the necessary steps to ensure that the annual report(s) contain(s) full information on the subjects set forth in Article 21.*

The Committee is raising other matters in a request addressed directly to the Government.

Poland

Labour Inspection Convention, 1947 (No. 81) (ratification: 1995)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1995)

In order to provide a comprehensive view of the issues relating to the application of ratified conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Labour inspection activities for the protection of foreign workers in an irregular situation and additional functions entrusted to labour inspectors. The Committee notes the Government's indication, in reply to its previous request, that the Border Guard (BG) is gradually taking over the controls in the area of legality regarding employment of foreigners. The Government indicates that after the adoption of the Polish Migration Policy in 2014, the focus of cooperation between the National Labour Inspectorate (NLI) and the BG is moving from jointly monitoring illegal employment to exchanging experiences, good practices and the interpretation of regulations. The Government states that this shall enable the NLI to focus more on issues directly concerning the protection of workers' rights. According to the statistics contained in the Government's report and the 2015 annual inspection report submitted in 2016, this shift resulted in labour inspections focusing more on controlling the legality of employment of Polish citizens: around 23,000 out of a total of 90,000 inspections performed by the NLI in 2015 focused on the legality of employment and other paid work of Polish citizens. This resulted in the detection of illegal employment of around 21,000 workers, including over 13,000 purported independent contractors. The Committee welcomes the indication that more than 8,000 of those workers obtained employment contracts through the labour inspectorate's interventions.

The Committee notes the Government's indication, nonetheless, that labour inspection controls are carried out in relation to foreign nationals illegally residing in the territory in cooperation with the BG, or that results of the inspections are notified to the BG, which then imposes sanctions. The Government indicates that the NLI focuses on the enforcement of employers' obligations with regard to the statutory rights of only Polish workers who are found to be in an irregular situation with little control over foreign workers in a similar situation, as a consequence of the new distribution of duties between the BG and the NLI. The 2015 annual labour inspection report indicates that in 2015, 3,000 labour inspections focused on the legality of employment related to foreigners, one third of which detected violations. The Government states that the NLI detected a relatively small number of cases that concern foreign workers illegally residing in Poland: only 30 foreigners in nine entities were detected in 2015. For the years 2013–15, the detection of foreigners without work permits resulted in two referrals of motions for punishment to the court, four criminal fines and eleven educational measures. The Government indicates that the NLI is not aware of cases in which foreign workers illegally residing in Poland were granted statutory employment rights, such as wages and social security benefits. The Committee recalls that in its 2006

General Survey, *Labour inspection*, paragraph 77, it indicated that neither Convention No. 81 nor Convention No. 129 contain any provision suggesting that any worker be excluded from the protection afforded by labour inspection on account of their irregular employment status. The Committee further recalls its observation on the application of the Forced Labour Convention, 1930 (No. 29) in which it requested the Government to take the necessary measures to enable migrant workers to approach the competent authorities and seek redress in the event of a violation of their rights or abuses, without fear of retaliation. ***Noting the Government's efforts to relieve the inspectorate of the task of monitoring illegal employment of foreign workers by transferring it to the BG, the Committee requests the Government to provide information on the manner in which the labour inspection services ensure the enforcement of employers' obligations with regard to the statutory rights of foreign workers, including those in an irregular situation, resulting from their existing and past work (such as wages and social security benefits).***

Articles 5(a), 17 and 18 of Convention No. 81 and Articles 12, 22 and 23 of Convention No. 129. Sanctions and effective enforcement. Cooperation between the inspection services and the judiciary. The Committee takes note of the information provided by the Government in reply to its previous comments, on the number of notifications of a suspected crime made by labour inspectors to the Office of the Public Prosecutor (PO). However, it notes that nearly 75 per cent of notifications to the PO concerning suspicions of criminal offenses did not result in proceedings. The Government indicates that labour inspectors can file complaints or make requests for justification of the PO's refusal to initiate proceedings, and that inspectors submitted 131 such complaints in 2015. ***Noting that most cases transmitted to the PO do not result in proceedings, the Committee requests the Government to provide information on the measures taken or envisaged to enhance effective cooperation between the labour inspection services and the judicial system. The Committee further requests the Government to provide information on the reasons why the PO declined to proceed, suspended, or discontinued cases, and whether the PO communicates these concerns, or seeks additional information from inspectors, prior to its final decision not to proceed. It also requests the Government to provide information on the measures taken to ensure that labour inspectors receive appropriate training on the preparation of notifications to the PO and are systematically informed about the outcome of the cases notified.***

Articles 2(1), 5(a), 12(1), and 16 of Convention No. 81 and Articles 4, 12, 16(1) and 21 of Convention No. 129. Coverage of workplaces by labour inspections. Restrictions on collaboration between labour inspection officials and other public institutions and on inspectors entering workplaces freely. The Committee previously noted the Government's indications concerning the restrictions set forth in Chapter 5 of the Act on Freedom of Economic Activity (AFEA) providing that inspections require an authorization indicating the subject of the control, and that the scope of the control cannot be exceeded during inspections. The Committee takes due note that the AFEA was amended in 2015 to provide that certain restrictions would not apply if ratified international agreements provide otherwise. However, it notes with **concern** the Government's indication that the application of the provisions of the AFEA to the NLI poses various difficulties in practice.

The Committee takes due note that the requirement in section 79-2(1) of the AFEA of prior notification to carry out inspections does not apply to labour inspection, in light of the obligations under Conventions Nos 81 and 129. It however notes that section 79(a) requires labour inspectors to obtain and present authorization from the labour inspectorate to the entrepreneur or his/her representative, except for serious cases where authorization can be presented within three days after initiating the inspection. The Government states that obtaining this authorization can increase the time-consuming nature of activities before the start of an inspection and limits the mobility of labour inspectors. It poses practical difficulties in inspecting an entire workplace with more than two entrepreneurs or subcontractors, and often makes it difficult to conduct controls without an agreement from the entrepreneur. The Government also indicates that the AFEA prevents labour inspectors from carrying out joint inspections with other public authorities charged with supervising working conditions (such as the State Sanitary Inspectorate and the Road Transport Inspectorate). The Government further indicates that the AFEA requires carrying out inspections at the headquarters of the entrepreneur or place of business, which severely limits the possibility of monitoring entrepreneurs engaged in economic activities using their home address. The Committee also notes the detailed information provided by the Government on the various administrative court decisions on the application of the AFEA to the NLI and takes note of the Government's indication that there is a risk that evidence collected as a result of inspections may be regarded in violation of the AFEA. ***The Committee urges the Government to take measures to address the limitations on the work of the labour inspectorate related to prior authorization, inspecting workplaces with multiple employers and the conduct of joint inspections, in accordance with Articles 12 and 16 of the Convention No. 81 and Articles 16 and 21 of the Convention No. 129. It requests the Government to provide information on the measures taken in this respect, and to continue to provide information on the impact of the AFEA on labour inspection activities.***

The Committee is raising other matters in a request addressed directly to the Government.

Qatar

Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)

Technical cooperation. Following its previous comments, the Committee welcomes the information in the Government's report concerning the measures planned within the context of the technical cooperation programme

between the Government and the ILO, particularly the second pillar which concerns improving the labour inspection and occupational safety and health (OSH) systems. The Committee takes due note of the Government's indication that an assessment of the labour inspection system was conducted by the ILO to identify the technical needs of the system, which will be finalized by the end of 2018. ***The Committee requests the Government to provide detailed information on the measures taken to implement the recommendations of the assessment, once finalized, with a view to improving the implementation of the Convention.***

Articles 3, 8, 10 and 16 of the Convention. Sufficient number of labour inspectors and coverage of workplaces. The Committee previously noted that the technical cooperation programme between the Government and the ILO includes the implementation of a labour inspection policy and strategy, increasing the number of interpreters accompanying inspectors in order to permit interaction with workers during inspection visits, and measures to ensure that inspections cover all undertakings and workplaces prescribed by the Labour Law.

The Committee welcomes the Government's statement that the national labour inspection policy has been formulated, and is in the process of being developed and that a strategic unit was established within the Labour Inspection Department to oversee the development of modern strategic inspection plans. The Government also indicates that an inspection plan was prepared in 2018, with a view to covering all workplaces in the country. The Committee welcomes the Government's further indication that there are now 12 interpreters in the Labour Inspection Department (an increase from the four previously noted by the Committee), able to speak the most common languages among migrant workers, and that the number of inspectors able to speak both Arabic and English has increased to 100 (from the 96 previously noted). There are currently 255 labour inspectors, ten administrative supervisors and five technical supervisors. The Committee notes that this represents a decrease in the number of labour inspectors previously noted by the Committee, and also notes the Government's statement that this is due to a change in the Ministry's structure in March 2016, the transfer of some inspectors to the Wage Protection Department as well as a focus by the Ministry of Administrative Development, Labour and Social Affairs on developing inspectors' performance instead of focusing on the number of inspectors.

The Committee notes the Government's indication that in the first eight months of 2018, 27,771 inspections were undertaken (13,855 labour inspections and 13,916 OSH inspections), resulting in 3,475 warnings to remedy a violation and 1,235 infringement reports. Approximately 70 per cent of inspections found no violations, and another 10 per cent resulted in the provision of guidance and advice. The Government indicates that most inspections undertaken were proactive and unannounced (22,410), and that 2,119 follow-up inspections were undertaken. ***The Committee requests the Government to pursue its efforts to develop and implement a clear and coherent national labour inspection policy, aimed at ensuring the protection of workers. Noting that no violations were detected during the majority of inspections, the Committee urges the Government to pursue its efforts with respect to strategic planning and the development of modern strategic inspection plans, and to provide further information on the manner in which it identifies priorities and targets for inspection. It also requests the Government to continue to provide information on measures taken to ensure the recruitment of labour inspectors and interpreters able to speak the languages of migrant workers, and on the number of labour inspectors, disaggregated by gender. Lastly, it requests the Government to continue to take measures to increase the coverage of inspection visits, including smaller workplaces employing vulnerable migrant workers, and to continue to provide information on the total number of inspections undertaken, specifically disaggregated between announced, unannounced and routine, and also between complaint-based, accident-based and follow-up inspections.***

Articles 5(a), 17, 18 and 21(e). Effective cooperation between the labour inspectorate and the justice system, legal proceedings and effective enforcement of adequate penalties. The Committee previously noted a report commissioned by the Government recommending bolstering the powers of labour inspectors who, upon detecting non-compliance, only have the power to draw up infringement reports. These infringement reports are then referred to the courts for further action for any sanction to be applied. The Committee also noted that the outcome of most inspections was no further action and it welcomed the Government's indication that it was prepared to consider other powers that may be granted to labour inspectors in order to enforce the law. Further, the Committee once again noted that no information had been provided on the specific penalties applied in cases where decisions had been handed down by courts.

The Committee notes the information provided by the Government in response to its previous request, concerning the increase in the number of infringement reports referred to courts which was 676 in 2015, 1,142 in 2016, 657 in the first six months of 2017 and 1,235 in the first eight months of 2018. The Committee also notes the statement in the Government's report that it will communicate statistics on the outcome of cases referred to the judiciary by the Labour Inspection Department, but notes with *regret* that no such information has been provided despite the repeated requests from the Committee. The Committee notes the Government's indication that the technical cooperation between the Government and the ILO includes a review of relevant legislation in order to strengthen the enforcement powers of labour inspectors and their collaboration with the judicial system in line with the Committee's recommendations. ***The Committee requests the Government to take steps, in the context of the ongoing technical cooperation, to strengthen the effectiveness of enforcement mechanisms, including measures to provide enhanced enforcement powers to labour inspectors and further measures to promote effective collaboration with the judicial system (including the exchange of information on the outcome of cases referred to courts). In this respect, it once again urges the Government to provide***

the information requested on the outcome of cases referred to the judiciary by labour inspectors through infringement reports, including the penalties imposed by virtue of the Labour Law (acquittal, fines, including amounts, or prison sentences as applicable) and the legal provisions to which they relate, distinguishing these cases from those brought to court by workers themselves. It also requests the Government to provide comprehensive statistics on the other enforcement activities of the labour inspectorate.

Articles 5(a), 9 and 13. Labour inspection in the area of OSH. OSH inspections and preventive activities of the labour inspectorate. The Committee notes the information provided by the Government in response to its previous request that, in the first eight months of 2018, 13,916 OSH inspections were undertaken in 4,715 companies. The inspections undertaken resulted in 2,778 warnings to remedy infringements, 2,657 issuances of advice on OSH issues and 54 infringement reports. The Committee also notes with **concern** the Government's indication that the rate of workers' deaths in occupational accidents has increased significantly, rising to 117 deaths in 2017 (compared to 35 deaths in 2016, 24 in 2015 and 19 in 2014), and that the statistics provided on fatal accidents are not disaggregated by occupation or sector. The number of workers injured (with serious or moderately serious injuries) in occupational accidents in the first half of 2018 was 238 (compared to 245 during the same period in 2017). The Government indicates that it is taking a number of measures to reduce the rate of occupational injuries and accidents. This includes, in the context of the technical cooperation programme, steps to enhance the OSH system, implementation of an OSH policy, strengthening the training of OSH inspectors and carrying out competency tests for such inspectors, as well as awareness-raising campaigns on the means of prevention against occupational accidents. The Government indicates that these measures are necessary in view of the importance of strengthening the capacity of the Labour Inspection Department with respect to OSH in all sectors, including construction. The Government further indicates that the technical cooperation will include a gap analysis on the Occupational Safety and Health Convention, 1981 (No. 155), with a view to ratifying that instrument. Lastly, the Committee notes the Government's statement that pursuant to section 100 of the Labour Law, inspectors have the authority to prepare an urgent report, to be referred to the Minister, if they detect an imminent danger in the workplace and that these reports will result in the Minister issuing a decision of partial or total closure until the hazard is removed, while requiring non-compliant employers to pay workers' wages during the period of closure. **The Committee urges the Government to take immediate measures to address the increase in the number of fatal occupational accidents, including further measures to strengthen the capacity of labour inspectors with respect to the monitoring of OSH. The Committee requests the Government to continue to provide information on the number of occupational accidents, including fatal occupational accidents, and to indicate for fatal occupational accidents the occupation or sector concerned (such as construction, energy or hospitality services). It requests the Government to continue to provide information on the preventive activities of the inspectorate and the number and type of OSH inspection visits undertaken (indicating whether they are announced, unannounced, routine, in response to a complaint or to an accident, or follow-up), the number of violations detected, the number of infringement reports issued and, in particular, the information previously requested concerning the follow-up given by the judicial authorities to such infringement reports. The Committee also requests the Government to provide information on the implementation in practice by labour inspectors of the power, in accordance with Article 13, to make orders requiring measures with immediate executory force in the event of imminent danger to the health or safety of the workers, indicating the number of urgent reports and closure decisions issued under section 100 of the Labour Law.**

OSH in the construction sector. The Committee previously noted that the Supreme Committee for Delivery and Legacy and the Ministry of Administrative Development and Labour and Social Affairs concluded a Memorandum of Understanding (MoU) with Building and Wood Workers' International (BWI) with the goal of protecting the OSH of workers in 2022 World Cup projects, and that joint field visits with BWI began in 2017.

The Committee notes the statistical information provided by the Government on the inspection visits undertaken to 2022 World Cup project sites. The Committee also notes the Government's statement that collaboration with BWI is ongoing in order to review and evaluate training systems on OSH, but it observes an absence of information in reply to the Committee's previous request on any further joint inspections undertaken. The Committee further notes the Government's indication that approximately 50 per cent of occupational accidents in the first half of 2018 (118 out of 238 accidents) were caused by falls, a slight increase from the same period in 2017 (110 accidents representing 45 per cent). **The Committee urges the Government to continue to strengthen the capacity of the labour inspectorate with respect to OSH in the construction sector and to provide information on the measures taken in that respect, including capacity building for OSH inspectors related to preventive measures protecting against falls from heights. In addition, the Committee once again requests the Government to provide detailed statistics on the number of joint inspections undertaken under the MoU with BWI and on their outcome.**

Article 7. Recruitment and training of labour inspectors. The Committee notes the information provided by the Government on the training provided to labour inspectors in the first six months of 2018, including the number of participants and the type of training. It also notes the Government's indication that training is one of the major elements of the technical cooperation between the Government and the ILO, and that this includes an analysis of training needs of inspectors and the formulation of a training plan. The Committee notes the Government's statement that achieving enforcement of the Labour Law and its observance requires building the capacities of labour inspectors. The Committee further takes due note of a number of study visits planned for inspectors to learn about other systems of inspection, as well

as an MoU signed with the United Kingdom Health and Safety Executive with respect to some of the capacity-building and development needs of inspectors. *The Committee requests the Government to pursue its efforts to ensure that inspectors receive adequate training for the performance of their duties (noting that the total number of participants in training for the first six months of 2018 was less than one half of all inspectors). It requests the Government to continue to provide information on the training provided, including within the framework of the technical cooperation programme, specifying the number of labour inspectors that received training, the duration of such training and the subjects covered. It also requests the Government to provide further information on the recruitment process for labour inspectors, including the qualifications required and the induction training provided to new inspectors.*

The Committee is raising other matters in a request addressed directly to the Government.

Romania

Labour Inspection Convention, 1947 (No. 81) (ratification: 1973)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1975)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Article 3(1) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Control of undeclared work and the protection of foreign workers in an irregular situation. The Committee notes that, in accordance with the new Government Ordinance (GO) No. 488/2017 on the organization and functioning of the labour inspectorate, labour inspectors are entrusted with detecting undeclared work of foreign or posted workers (section 12) and perform inspections separately from, as well as in collaboration with, the General Inspectorate for Immigration. GO No. 488/2017 provides that employers bear liability, including joint and several liability, to principal and intermediate subcontractors for overdue wages of foreign workers engaged in undeclared work, including those in an irregular situation. The annual labour inspection report for 2017 indicates that in 2017, a total of 1,210 controls related to undeclared work of foreign workers were carried out and 37 sanctions (including warnings) and 111 measures were ordered. However, the Committee notes that the Government's report does not indicate whether such orders include those requiring the establishment of employment contracts or ensuring other statutory rights granted to foreign nationals engaged in undeclared work, such as the payment of overdue wages and other benefits resulting from their work. The Committee recalls that the functions of the system of labour inspection are to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, and that any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. In its 2006 General Survey, *Labour inspection*, paragraph 78, the Committee indicated that any function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. Referring to paragraph 452 of the 2017 General Survey on certain occupational safety and health instruments, the Committee recalls that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as the loss of their job or expulsion from the country. *The Committee requests the Government to take specific measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors to ensure the protection of workers in accordance with labour inspectors' primary duties as set forth in Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. It requests the Government to provide information on measures undertaken by the inspectorate to ensure the enforcement of the rights of foreign workers found to be in an irregular situation. It further requests the Government to provide information on the number of cases in which workers found to be in an irregular situation have been granted their due rights, such as the payment of outstanding wages or social security benefits, or orders for the establishment of an employment contract.*

The Committee is raising other matters in a request addressed directly to the Government.

Russian Federation

Labour Inspection Convention, 1947 (No. 81) (ratification: 1998)

Articles 3(1), 10 and 16 of the Convention. Number of labour inspectors and coverage of workplaces by labour inspection visits. In its previous comment, the Committee observed that the number of labour inspectors continuously decreased over a number of years. It noted the Government's indication that the limited number of staff in 2010 had significantly affected the results and quality of labour inspection. The Committee notes from the statistics provided in the 2016 report of the Federal Service of Labour and Employment (Rostrud) that the number of labour inspectors decreased between 2012 and 2016 from 2,680 to 2,102. It also notes from the same source that the number of labour inspectors is considered to be insufficient to achieve sufficient coverage of workplaces by labour inspection visits, which often results

in the verification and control of documents from the offices of the Rostrud rather than the conduct of actual labour inspection visits in workplaces. ***The Committee urges the Government to take the necessary measures to ensure the recruitment of an adequate number of labour inspectors to ensure that workplaces are inspected as often and as thoroughly as is necessary to enable the effective application of the relevant legal provisions. It requests the Government to continue to provide information on the number of labour inspectors.***

Articles 12 and 16. Labour inspection powers and prerogatives. The Committee notes the Government's indication, in reply to the Committee's request to give full effect to *Article 12*, that the powers of labour inspectors to ask workers and employers questions provided for in section 357 of the Labour Code are not curtailed by the Federal Law No. 294-FZ of 2008 (as amended in 2014) on the protection of legal entities and individual entrepreneurs in state control (supervision) and municipal control. However, the Committee notes that section 357 only gives labour inspectors the power to interview employers (and not workers) and that Law No. 294-FZ, the Labour Code (as amended) and Regulation No. 875 of 2012 (on state supervision over the observance of labour legislation and other normative legal acts containing labour law provisions) provide for numerous restrictions on the powers of labour inspectors, including the free initiative of labour inspectors to undertake inspections without prior notice (sections 9(12) and 10(16) of Law No. 294-FZ), and the free access of labour inspectors to workplaces (without an order from a higher authority) at any hour of the day or night (sections 10(5) and 18(4) of Law No. 294-FZ). Moreover, these laws and regulations provide for restrictions on the conduct of labour inspections as often and as thoroughly as necessary, including limitations with regard to the grounds on which unscheduled inspection visits may be undertaken (section 360 of the Labour Code, section 10(2) of Law No. 294-FZ and section 10 of Regulation No. 875 of 2012). The Committee further notes that pursuant to section 19(6)(1) and (2) of the Code of Administrative Offenses, labour inspectors may incur administrative liability where they fail to observe certain of these restrictions, for example where they undertake labour inspections on grounds other than those permitted in law. ***Recalling the importance of fully empowering labour inspectors to make visits without previous notice in order to guarantee effective supervision, the Committee urges the Government to take the necessary measures to bring the national legislation into compliance with Articles 12 and 16 of the Convention. Particularly, it urges the Government to ensure that labour inspectors are empowered to: (i) make visits without previous notice, in line with Article 12(1)(a) and (b) of the Convention; (ii) to interrogate both employers and staff, in accordance with Article 12(1)(c)(i); and (iii) to allow for the undertaking of labour inspections as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, in accordance with Article 16.***

Articles 7, 17 and 18. Enforcement of labour law provisions. The Committee notes the information provided by the Government, in reply to the Committee's previous request, concerning the causes for the discrepancy between the number of cases reported by the labour inspectorate, the number of investigations initiated and the number of convictions. The Committee notes the Government's indication that one of the main reasons that criminal cases are not pursued was that criminal intent could not be established (criminal cases were only initiated in one out of the 14 cases reported). The Government further indicates that the reasons that administrative cases are not pursued included that non-compliance reports prepared by the labour inspectorate were incomplete or did not contain the required documents. Moreover, decisions on the closure of administrative cases were often communicated too late for the labour inspectorate to submit appeals within the prescribed time limits. However, in relation to the payment of wages, the Committee notes the Government's indication in its 2017 report on the application of the Protection of Wages Convention, 1949 (No. 95), that the number of investigations initiated and the number of convictions for cases reported concerning the non-payment of wages has increased.

With regard to the requested information on the enforcement of the legal provisions pertaining to fundamental rights at work, the Committee notes that the Government indicates that the labour inspectorate could not identify evidence for any violations of freedom of association rights. In this context, the Committee also recalls its observation published in 2017 under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) in which it noted the observations of the Confederation of Labour of the Russian Federation (KTR) concerning a number of deficiencies in the enforcement of the provisions relating to acts of anti-union discrimination, including the lack of training of law enforcement staff concerning the evidence needed to establish violations under the Criminal Code. ***The Committee requests the Government to take the necessary measures to ensure the effective enforcement of the legal provisions enforceable by labour inspectors, and to address the shortcomings it has identified in this regard. It requests the Government to provide information on the concrete measures taken in this respect (such as training for labour inspectors on the establishment and completion of non-compliance reports including the collection of the necessary evidence; the improvement of communication and coordination activities with the judiciary on the required evidence to establish and effectively prosecute labour law violations as well as the need for timely communication of the outcome of cases to the labour inspectorate). The Committee requests the Government to provide detailed statistics on the administrative and criminal cases reported by the labour inspectorate including the relevant legal provisions, the investigations and prosecutions initiated and the penalties imposed as a result.***

The Committee is raising other matters in a request addressed directly to the Government.

Saint Vincent and the Grenadines

Labour Inspection Convention, 1947 (No. 81) (ratification: 1998)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Legislation. The Committee notes with interest that an Occupational Safety and Health (OSH) Bill has been developed in cooperation with the ILO, which addresses several of the previous points raised by the Committee (such as the powers of labour inspectors provided for under *Article 13 of the Convention*, the notification of the labour inspectorate of industrial accidents and cases of occupational diseases provided for under *Article 14*, etc.), and that relevant national consultations with various stakeholders, including employers' and workers' representatives, are currently being held. ***The Committee asks the Government to continue to keep the ILO informed of any progress made in the adoption of this Bill and to communicate a copy of the relevant OSH Act, once adopted. It expresses the hope that this OSH Act will give full effect to the Convention.***

Articles 20 and 21 of the Convention. *Annual report on the work of the labour inspection services.* The Committee notes that, once again, no annual labour inspection report has been received by the Office, nor has any statistical information been communicated by the Government. It notes the Government's indication according to which ongoing technical assistance is provided by the Office for the implementation of the Labour Market Information System (LMIS) which, as the Committee had previously noted, contains statistics on labour inspection and is intended to be used to record and generate reports on labour inspections. It also notes the Government's indications that comprehensive statistical labour inspection reports are expected to be published separately as from 2014, provided that inspection data are correctly and regularly entered in the LMIS database. ***The Committee requests the Government to make every effort, including the training of staff in the use and operation of the LMIS, to allow the central labour authority to publish and communicate to the ILO, together with its next report due in 2016, an annual labour inspection report containing full information as required under Article 21(a)–(g) of the Convention.*** The Committee recalls also that the Government could make use of the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81), concerning the type of information that should be included in a labour inspection report.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

San Marino

Labour Statistics Convention, 1985 (No. 160) (ratification: 1988)

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2012.

Legislation. ***The Committee requests the Government to indicate any new legal provision relating to matters covered by the Convention and international standards used in designing or revising the concepts, definitions and methods used in the collection, compilation and publication of the statistics required thereby.***

Article 2 of the Convention. ***The Committee asks the Government to provide information on the application of the latest international standards and to specify, for each Article of the Convention for which the obligations were accepted (that is, Articles 7, 8, 9, 10, 11, 12, 13, 14 and 15), which standards and guidelines are followed.***

Article 7. ***The Committee requests the Government to indicate the concepts, definitions and methodology used to produce the official estimates of labour force, employment and unemployment in San Marino.***

Article 8. ***The Committee invites the Government to provide methodological information on the concepts and definitions relating to the register-based labour force statistics in pursuance of Article 6 of this Convention be provided to the ILO.***

Article 9(1). ***Noting that the annual statistics of average earnings and hours actually worked are not yet broken down by sex, the Committee asks the Government to take necessary steps to this end and to keep the ILO informed of any future developments in this field.***

Article 9(2). ***The Committee asks the Government to ensure that statistics covered by these provisions are regularly transmitted to the ILO.***

Article 10. ***The Committee asks the Government to take necessary steps to give effect to this provision and to keep the ILO informed of any developments in this field.***

Article 11. The Committee notes that no information is available on the structure of compensation of employees by major components. ***It therefore asks the Government whether it is possible to compile such statistics for more than four groups in manufacturing, and to communicate these to the ILO as soon as practicable, in accordance with Article 5 of this Convention.***

The Committee also asks the Government to indicate the measures taken to produce, publish and communicate to the ILO specific methodological information on the concepts, definitions and methods adopted to compile statistics of average compensation of employees in pursuance of Article 6.

Article 12. ***The Committee invites the Government to provide the methodological information on the new consumer price indices (CPI) (base December 2002 = 100) in pursuance of Article 6 of this Convention.***

Article 13. The Committee notes that detailed statistics on household expenditures are regularly published by the Office of Economic Planning, Data Processing and Statistics in the annual publication, *Survey on the consumption and the San Marino families life style*. However, no information is available in this publication about the sources, concepts, definition and methodology used in collecting and compiling household income and expenditure statistics. ***The Committee invites the Government to:***

- (i) ***indicate whether the representative organizations of employers and workers that were consulted when the concepts, definitions and methodology used were designed (in accordance with Article 3); and***

- (ii) *communicate a detailed description of the sources, concepts, definition and methodology used in collecting and compiling household income and expenditure statistics as required under Article 6.*

Article 14. The Committee requests the Government to provide more comprehensive information about the statistical system, with particular reference to the concepts and definitions used for statistics on occupational injuries.

Article 15. As no data on strike and lockout (rates of days not worked, by economic activity) were provided, the Committee invites the Government to communicate data in accordance with Article 5 of this Convention.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Saudi Arabia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1978)

Article 3(1) and (2) of the Convention. Labour inspection functions concerning foreign workers. Immigration law. The Committee recalls the discussion in the Committee on the Application of Standards (CAS) of the International Labour Conference at its 100th Session (June 2011) on the application of this Convention and the effective functioning of the labour inspection system, including with regard to the protection of foreign workers. In this respect, the Committee previously noted the findings in an ILO assessment undertaken in December 2011, according to which most labour inspection visits were targeted at verifying the legality of the employment status of foreign workers. The Committee notes that the Government refers in its report, in response to the Committee's request, to a regularization campaign concerning undocumented foreign workers who have been in the country since 2013, which enabled these workers to regulate their residence situation without being penalized under immigration law. It further notes that during the period of the regularization campaign, the enforcement of expulsion orders did not involve any costs for the foreign workers concerned (i.e. penalties for violations of immigration law or residence and work permit fees). Concerning the sanctioning of workers detected for working without a valid work permit, the Committee observed in its 2017 General Survey on certain occupational safety and health instruments, paragraph 452, that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as the loss of their job or expulsion from the country. ***Recalling that under the Convention, the primary duty of labour inspectors is to protect workers and not to enforce immigration law, the Committee once again requests the Government to provide information on the labour standards violations found in relation to foreign workers who are in an irregular situation, and any penalties imposed, classified according to the legal provisions to which they relate. Since the Government has not provided a reply in response in this respect, the Committee also once again requests the Government to provide detailed information on the time and resources of the labour inspectorate spent on activities in the area of verifying the legality of employment compared to activities spent on securing the enforcement of legal provisions relating to conditions of work and the protection of workers (relating to working hours, wages, safety and health, child labour, forced labour, etc.).***

Protection of the rights of foreign workers, including in relation to the payment of wages. The Committee recalls its comments under the Forced Labour Convention, 1930 (No. 29) published in 2017, in which it noted the observations of the International Trade Union Confederation (ITUC) concerning the widespread situation of wage arrears of foreign workers in the country, who often find themselves in a very difficult situation where their passport was confiscated. It also recalls its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) published in 2017, in which it noted that while the sponsorship system had been formally abolished, it appeared that this system was still applied in practice and that migrant workers suffering abuse and discriminatory treatment may still be reluctant to make complaints out of fear of retaliation by the employer or because of uncertainty as to whether this would lead, among other outcomes, to deportation. In reply to the Committee's request made under the present Convention on the functioning of the wage protection system, the Government refers to the gradual implementation of the electronic wage protection monitoring system which aims at registering 3,489 enterprises and their mandatory use of this system. The Government also indicates that in 2015, violations of timely payment were established in relation to 4,493 workers employed by 365 undertakings, that 459 cases were referred to the judicial bodies and that 596 penalties were imposed in that year.

Finally, the Committee notes that the Government emphasizes, in response to its request, that the payment of outstanding entitlements, including wages and compensation for workplace injuries, of foreign workers who are in an irregular situation is guaranteed before their return to their country of origin. ***Welcoming the information on the guarantee of the payment of outstanding entitlements to foreign workers before the return to their country of origin, the Committee once again requests the Government to provide relevant statistics in this respect. Referring to its request made under Convention No. 29, the Committee requests the Government to indicate how labour inspectors assist foreign workers in the event of the violation of their rights, including with respect to matters related to abuse, discrimination, passport confiscation and contract substitution. The Committee requests the Government to continue to provide information on any developments concerning the monitoring of wage arrears in the country, and to continue to provide statistical information on the number of violations detected and the penalties imposed in this respect.***

Articles 10, 11 and 16. Number of labour inspectors and inspection visits. Material means available to the labour inspection services. The Committee recalls the commitment made by the Government during the discussions in the CAS in 2010 to create 1,000 additional labour inspection positions. It notes that the number of labour inspectors increased from 210 in 2010 to 606 in 2015 and that the number of labour inspection visits in the same period increased from 90,048 to

148,312. The Committee also notes that the 2015 labour inspection report identifies the insufficient number of labour inspectors in relation to the number of workplaces liable to inspection as a challenge. According to the statistical information in the 2017 annual labour inspection report, transmitted by the Government, there were 548 labour inspectors in 2017 and 76,107 labour inspections undertaken. ***Noting the decline in the number of labour inspectors, the Committee requests the Government to strengthen its efforts to ensure an adequate number of labour inspectors in relation to the workplaces liable to inspection, as called for under its commitment in the CAS, and to continue to provide information on the number of labour inspectors, including on the number of women inspectors working within the labour inspection services, as well as on the number of labour inspections undertaken. The Committee also requests the Government to provide information on the reasons for the decline in the number of inspections undertaken.***

Articles 17 and 18. Enforcement of penalties. The Committee notes from the ILO assessment undertaken in 2011 that most infringement reports imposing penalties were rejected by the courts due to the existing system, which requires the signature of the concerned employers or their representatives. The Committee notes that the labour inspection reports sent by the Government contain statistics on the number of oral and written warnings and the number of infringement reports, but that they do not contain information on the nature of the infringements detected (such as working time, delays in the payment of wages, occupational safety and health, etc.) and the penalties imposed (such as the amount of fines). ***The Committee requests the Government to provide detailed information on the number of violations detected, the nature of the violations, and their outcome, including infringement reports issued, referrals to the judicial authorities, and the nature of the penalties imposed (fines or imprisonment). The Committee also requests information on any difficulties encountered in the enforcement of penalties for violations detected (such as the rejection of penalties by the courts due to procedural issues), and any measures taken to improve the system for the enforcement of labour law violations.***

The Committee is raising other matters in a request addressed directly to the Government.

Senegal

Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)

Article 3(2) of the Convention. Additional functions entrusted to labour inspectors. The Committee notes from the 2015 Annual Report on labour statistics referred to in the Government's report and available on the website of the Ministry of Labour, Social Dialogue, Professional Organizations and Institutional Relations that the labour inspection services dealt with a significant number of individual and collective labour disputes in that year. The Committee recalls that, in accordance with *Article 3(2)* of the Convention, any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. In its General Survey of 2006, *Labour inspection*, the Committee recalled the importance of not overburdening inspectorates with tasks which by their nature may in certain countries be understood as incompatible with their primary function of enforcing legal provisions (paragraph 72). ***The Committee requests the Government to provide information on the time and resources devoted by labour inspectors to the additional functions of conciliation and mediation in comparison with their primary functions (as provided for in Article 3(1) of the Convention).***

Articles 10, 11 and 16. Human and material resources of the inspection system and inspection visits. The Committee previously noted that in 2013, the labour inspection staff was composed of 60 inspectors and 59 controllers (assistant inspectors). The Committee notes in this respect that the Government reiterates that there is a need to increase the means of the labour inspection services, and that the strengthening of the financial and logistical means and human resources of the labour administration is one of the objectives in the National Pact for social stability and economic emergence signed with the social partners in 2014. The Committee also notes that according to the 2016 report on labour statistics (referred to in the Government's report and available on the website of Ministry of Labour, Social Dialogue, Professional Organizations and Institutional Relations), the number of labour inspection staff had significantly decreased to 30 inspectors and 34 controllers by 2016. The Committee notes, however, that the recent reports on labour statistics indicate a significant rise in the number of workplaces inspected, rising from 1,587 in 2014, to 1,931 in 2015 and 2,607 in 2016. ***Noting the rise in the number of labour inspections but a decline in the number of labour inspectors, the Committee requests the Government to take measures to ensure that workplaces are inspected as thoroughly as is necessary to ensure the effective application of the relevant legal provisions and urges the Government to take the necessary measures to ensure that there are a sufficient number of labour inspectors to secure the effective discharge of their duties. In this respect, it requests the Government to provide information on any improvements concerning the human resources and material means of the labour inspection services. It further requests the Government to provide information on the number of labour inspection staff and the financial and human resources available to the labour inspection services, as well as the number of labour inspections carried out from 2017 onwards.***

Article 13(2)(b). Measures with immediate executory force in the event of imminent danger to the health or safety of the workers. The Committee previously noted that Decree No. 2006-1255 of 15 November 2006 limits the application of measures with immediate executory force in the event of imminent danger to the health or safety of the workers to situations resulting from a failure to comply with occupational safety and health laws or regulations (section 18) except in the building sector (where no violation of the legislation is required for an order of cessation of work (sections 19 and

20)). The Committee notes the Government's indication that these limitations are being considered in the context of the reflections concerning the strengthening of the legal powers of labour inspectors. *With reference to its previous comments, the Committee once again requests the Government to take the necessary measures in law and practice to ensure that, in accordance with Article 13(2)(b), inspectors may order immediate executory measures in the event of imminent danger to the safety and health of the workers, without necessarily establishing the existence of a violation of laws or regulations in all industrial and commercial establishments, and not only in the building sector. The Committee also requests the Government to provide information on any measures taken or envisaged in the context of the consideration of the strengthening of the legal powers of labour inspectors.*

Articles 17 and 18. Effective enforcement of adequate penalties for violations of legal provisions. The Committee notes the Government's indications, in response to the Committee's previous request, that there have not been any new developments concerning the proposed revision of the amounts of penalties for violations of the labour legislation. The Committee notes from the statistical information provided in the 2015 report on labour statistics that 1,931 labour inspection visits were undertaken in that year, and that labour inspectors requested employers to remedy violations detected, but that no reports of non-compliance were issued. It notes that this represents a significant decline from 2014, when 58 reports of non-compliance were issued, and it observes that only two reports of non-compliance were issued in 2016. The Government reiterates that a strengthening of the legal powers of labour inspectors is necessary and that the Minister of Labour had undertaken discussions with the Minister of Justice in that respect. *The Committee requests the Government to provide detailed statistics on the violations detected during inspection visits and the subsequent penalties imposed, as well as to indicate the reasons for the significant decline in the number of non-compliance reports issued. The Committee also requests the Government to continue to provide information on any measures taken to strengthen the powers of labour inspectors. It once again requests the Government to provide information on any progress made in the revision of the amounts of penalties for labour law violations.*

The Committee is raising other points in a request addressed directly to the Government.

Serbia

Labour Inspection Convention, 1947 (No. 81) (ratification: 2000)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2000)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129. Free entry of labour inspectors to workplaces without prior notice. The Committee notes with **concern** that the new Law on Inspection Oversight No. 36/15 of April 2015 applies to labour inspection and provides for a number of restrictions on the powers of inspectors. This includes with regard to the free initiative of labour inspectors to undertake inspections without prior notice provided for in *Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129*: sections 16 and 17 of the Law, which require three days prior notice for most inspections and a written inspection warrant (except in emergency situations) specifying, among other things, the purpose of the inspection and its duration. Section 16 further provides that if, during the course of the inspection, an inspector uncovers an instance of non-compliance that exceeds the inspection warrant, the inspector must apply for an addendum to the warrant. The Committee also notes that the Law provides that inspectors shall be held personally accountable for the actions undertaken in the course of their duties (section 49) and that they may receive a fine in the amount of Serbian dinar (RSD) 50,000 to RSD150,000 (approximately US\$500 to US\$1,500), for example, if they undertake inspections without prior notice (section 60). *The Committee requests the Government to take the necessary measures to ensure that the restrictions and limitations for labour inspectors in the Law on Inspection Oversight No. 36/15 are expeditiously removed so as to ensure that labour inspectors are empowered to enter freely and without previous notice workplaces liable to inspection in conformity with Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129, and to inform the Committee of steps taken in this regard.*

The Committee is raising other matters in a request addressed directly to the Government.

Sierra Leone

Labour Inspection Convention, 1947 (No. 81) (ratification: 1961)

Articles 6 and 7 of the Convention. Recruitment and training of labour inspectors and independence of labour inspectors. The Committee notes the information in the Government's report that no training opportunities have been provided to labour inspectors in terms of technical or specialized areas, although initial induction training is offered for labour inspectors within the various units in the Ministry of Labour and Social Security. The Committee also notes the Government's indication that, with respect to qualifications of the labour inspection staff, one of the factors considered in

recruitment is political affiliation. The Committee recalls that pursuant to *Article 6* of the Convention, labour inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of improper external influences and, pursuant to *Article 7*, they shall be recruited with sole regard to their qualifications for the performance of their duties. ***The Committee requests the Government to take necessary measures to ensure that labour inspectors are recruited with sole regard to their qualifications for the performance of their duties, in accordance with Article 7 of the Convention. Taking due note of the resource constraints, the Committee expresses the hope that the Government will be in a position to make the necessary arrangements to implement an ongoing training programme for labour inspectors, and it requests the Government to provide information on any developments in this respect.***

Article 12(1)(a). Unannounced visits and free access to workplaces liable to inspection. The Committee notes the Government's indication in its report that owners of workplaces are notified of formal inspection visits. In this respect, the Committee recalls that under *Article 12* of the Convention, labour inspectors provided with proper credentials shall be empowered to enter freely and without previous notice any workplace liable to inspection. ***The Committee requests the Government to take the necessary measures, including in the context of the ongoing labour law reform process, to ensure that labour inspectors are empowered, in law and practice, to enter freely and without previous notice any workplace liable to inspection.***

Article 18. Adequate penalties. The Committee notes the Government's reference to the Factories Act, 1974 concerning applicable fines or penalties, and it observes in this respect that the fines established are quite low. ***The Committee requests the Government to take the necessary measures in the context of the ongoing labour law reform, to ensure the establishment of adequate penalties for the legal provisions enforceable by labour inspectors.***

The Committee is raising other matters in a request addressed directly to the Government.

Singapore

Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Article 3(2) of the Convention. Additional functions entrusted to labour inspectors. The Committee notes that, according to the Government, labour inspections are carried out irrespective of nationality and that employers engaging workers covered under the Employment Act are required to discharge their obligations with regard to the statutory rights of foreign workers. The Government also indicates that foreign workers "who are not complicit" in their illegal employment may seek recourse for salary arrears and other benefits. The Committee reminds the Government that, in accordance with *Article 3(2)* of the Convention, any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties, or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers. Furthermore, the Committee refers to paragraphs 75–78 of its 2006 General Survey on labour inspection, in which it emphasized, in relation to the assignment to labour inspectors of the task of supervising the legality of employment and prosecuting violations, including migrant workers in an irregular situation, that the primary duty of labour inspectors is to secure the enforcement of the legal provisions relating to conditions of work and the protection of all workers and not to enforce immigration law, and that the Convention does not contain any provision suggesting that any worker be excluded from the protection afforded on account of their irregular employment status. The Committee reminds the Government that the function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. ***The Committee requests the Government to provide information on how it ensures the discharge of employers' obligations with regard to the statutory rights of foreign workers illegally employed, regardless of whether or not they are aware of their employment status, such as the payment of wages and any other benefits owed for the work performed in the framework of their employment relationship, including where the workers in question are liable to expulsion or after they have left the country.***

Furthermore, the Committee asks the Government to provide information on the time and resources the labour inspectorate spends on activities in the area of irregular work in relation to activities spends on securing the enforcement of legal provisions relating to other areas (such as provisions relating to working hours, wages, safety and health, child labour, etc.), and to continue providing relevant information on the number of inspections, violations found and penalties imposed, categorized according to the legal provisions to which they relate.

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Slovakia

Labour Inspection Convention, 1947 (No. 81) (ratification: 2009)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2009)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Article 3(2) of Convention No. 81, and Article 6(3) of Convention No. 129. Additional duties entrusted to labour inspectors. The Committee notes that according to the 2017 Report on the State of Work Protection, more time was spent by the labour inspection system performing inspections to control illegal employment than to perform inspections related to occupational safety and health (OSH). The Committee notes in this respect that the 2017 Report indicates that the labour inspection system cooperated with the specialized units of the Police Force (such as the Border and Alien Police Office; the Emergency Motor Vehicle Unit; Police and Criminal Police Officers; the Police Corps Presidium; the Risk Analysis and Coordination Division; the Risk Analysis and Statistics Department; the Human Trafficking Unit; the Centre for Combating Trafficking in Human Beings and Crime Prevention; the National Unit for Combating Illegal Migration; and the Local and National Police) to monitor compliance with the prohibition of illegal employment and trafficking of third-country nationals. The Committee also notes the information from the 2017 Report that in 2017 the labour inspection system carried out 19,467 inspections on illegal employment and 14,885 labour inspections on legal provisions under the Labour Code relating to wages, hours of work, employment contracts, as well as employment relationships.

The Committee recalls that, pursuant to *Article 3(1) and (2) of Convention No. 81 and Article 6 of Convention No. 129*, the functions of the system of labour inspection shall be to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, and any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties. In its 2006 General Survey, *Labour inspection*, paragraph 78, the Committee indicated that any function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working. Referring to paragraph 452 of the 2017 General Survey on certain occupational safety and health instruments, the Committee reminds the Government that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as the loss of their job or expulsion from the country. ***The Committee requests the Government to take specific measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors to ensure the protection of workers in accordance with labour inspectors' primary duties as provided for in Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. It also once again requests the Government to provide information on action undertaken by the National Labour Inspectorate to ensure the enforcement of employers' obligations with regard to the statutory rights of workers found to be in an irregular situation. It further asks the Government to provide information on the number of cases in which workers found to be in an irregular situation have been granted their due rights, such as the payment of outstanding wages or social security benefits.***

The Committee is raising other matters in a request addressed directly to the Government.

Slovenia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1992)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1992)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Legislation. The Committee previously noted the overlapping provisions of the Labour Inspection Act (LIA) and the Inspection Act (IA) (which applies to all supervisory bodies, not only the labour inspectorate). It noted that section 3 of the IA provides that in the event of conflicting provisions, other laws take precedence over the IA. It noted, however, that legal uncertainty remained with respect to a number of important issues covered by Convention No. 81, and requested the Government to provide information on steps taken to provide greater certainty regarding the applicable provisions concerning labour inspection. In this respect, the Committee notes a series of amendments to labour legislation in recent years that reshape the mandate and functions of the labour inspectorate, including further amendments to the LIA in 2017, the 2016 amendments to the Employment Relationship Act (ERA), as well as the adoption of the Employment, Self-employment and Work of Aliens Act (ESWLA) and the Prevention of Undeclared Work and Employment Act (PUWEA). It notes with ***concern*** that, despite legislative reforms in recent years, legal uncertainty remains due to conflicting or overlapping provisions of the LIA and IA, with respect to, among others, preventative measures by inspectors, qualifications for inspectors, the requirement for liable employers to cover the costs of inspection, inspectors' free access to workplaces without prior notice with certain exceptions, inspection procedures and their costs. The Committee further notes that the labour inspectorate (LI) is proposing various amendments to the new LIA, described in detail in the annual labour inspection report for 2017 (2017 Annual Report) available on the LI's website, some of which were transmitted to the Ministry of Labour, Family, Social Affairs and Equal Opportunities at the end of 2017. ***The Committee requests the Government to indicate the extent to which labour inspectors are bound by the general principles established under the IA as well as how the overlapping or conflicting provisions under the IA and the LIA are applied in practice to the daily work of labour inspectors. In this respect, it requests the Government to clearly identify the provisions of the IA***

from which labour inspection is excluded, in light of the exception stated in section 3 of the IA, and to provide any judicial decisions or official guidance issued in that respect.

Articles 6, 10 and 16 of Convention No. 81 and Articles 8, 14, and 21 of Convention No. 129. Number of labour inspectors and their conditions of service. Stability and independence of labour inspectors. The Committee previously noted a decline in the number of labour inspectors (from 88 in 2011 to 81 in 2013). It notes with **concern**, that according to the 2017 Annual Report, the number has continued to drop to 77 in 2017 (41 labour inspectors for general labour conditions and employment relationships, 31 for occupational safety and health and five for social protection and security). The 2017 Annual Report states that this occurred despite an increase of 40,000 registered business entities since 2008 and additional duties being mandated to labour inspectors under the new LIA. In 2017, labour inspectors performed a total of 14,541 inspections (7,649 in the area of labour conditions and employment relationships; 6,659 on occupational safety and health and 233 on social protection), which resulted in the detection of a total of 29,513 violations. The Committee further notes with **concern** that the 2017 Annual Report states that labour inspectors are overwhelmed with the amount of assigned cases, and face a significant level of external pressure from both complainants and employers in the form of insults, misconduct, and aggressiveness concerning matters beyond their mandate. **Noting the continuous decline in the number of labour inspectors and their heavy workload, as documented in the 2017 Annual Report, the Committee requests the Government to take the necessary measures to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate. It requests the Government to provide information on the measures taken in this respect, as well as measures taken or envisaged to address the issues raised in the 2017 Annual Report related to the pressure facing labour inspectors, including with a view to ensuring their independence from improper external influences.**

Article 12(1)(b) of Convention No. 81 and Article 16(1)(b) of Convention No. 129. Access to workplaces liable to inspection. The Committee previously noted that pursuant to section 21 of the IA, persons owning or possessing business premises, production premises or other premises or land can refuse inspectors' free access under certain conditions. However, it also noted the Government's indication that in practice, no cases had been recorded where the entry to workplaces had been refused by reason of section 21. **The Committee urges the Government to take measures to bring the national legislation into conformity with Article 12 of Convention No. 81 and Article 16 of Convention No. 129 to ensure that that labour inspectors are empowered to enter by day premises which they may have reasonable cause to believe to be liable to inspection.**

The Committee is raising other matters in a request addressed directly to the Government.

Sudan

Labour Inspection Convention, 1947 (No. 81) (ratification: 1970)

Draft strategy on labour inspection. The Committee previously requested information on the status of the draft strategy on labour inspection, that was developed based on discussions in 2014 in the National Tripartite Workshop on Labour Inspection. The Committee takes note of the Government's indication that the draft strategy on labour inspection has been transmitted to the joint committees with the social partners for their recommendations. It however notes with **concern** the delay in adopting the strategy which aims to enable the establishment and effective operation of the labour inspection system. **Noting the transmission of the draft labour inspection strategy for consultation with the social partners, the Committee urges the Government to pursue its efforts with a view to adopting its strategy on labour inspection in the very near future, and to provide a copy once adopted.**

Article 3(1) and (2) of the Convention. Labour inspection functions and additional duties entrusted to labour inspectors. The Committee takes note of the statistics provided in the Government's report, in reply to its previous comments, indicating that in 2016, the labour inspectorate handled a total of 1,744 collective and individual labour disputes but performed only 226 labour and OSH inspections. The Committee notes with **concern** that this is a reduction of more than 80 per cent from the previous year (1,356 inspections were performed in 2015). The labour inspectorate also provided 564 consultations in 2016, a smaller reduction from the 609 consultations in 2015. Labour inspectors also engage in conflict resolution during inspections. In addition, the Government's report indicates that labour inspection visits may involve inquiries regarding the reduction of employees for economic or technical reasons at an employer's request and, where necessary, inquiries about termination of employment, in accordance with the law. In 2016, 44 inspection visits were performed for this purpose. Moreover, according to the Government's report, inspection visits may also be conducted with the purpose of helping the public authorities implement an order relating to the public interest based on a directive from the competent authority. The Committee recalls that the primary functions of the labour inspection system are to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. The Committee notes with **concern** that a significant part of labour inspectors' activities is devoted to the resolution of labour disputes, despite the Government's indication that a lack of resources hinders the practical application of labour legislation. **Noting the limited available resources and the significant amount of time spent on the settlement of disputes, the Committee urges the Government to take the necessary steps to ensure that any other functions entrusted to inspection officers do not interfere with the effective discharge of their primary duties to enforce the legal provisions relating to conditions of work and the protection of workers while engaged in their work. The**

Committee also requests the Government to provide specific information on the role that the labour inspectorate plays in the reduction of workforce and termination of employment as well as information on orders previously issued relating to the public interest that required the undertaking of inspection visits. In addition, the Committee requests the Government to provide information on measures undertaken and contemplated to address the 80 per cent reduction in the number of labour inspections.

Article 4(1) and (2). Organization and effective functioning of the labour inspection system under the supervision and control of a central authority. The Committee notes the information provided by the Government, in response to its previous request for an organizational chart of the Labour Inspection (LI) and Industrial Relations (IR) Department, concerning the organization of the LI and IR Departments in Khartoum State. It notes, however, an absence of information on the organization of the central labour inspection system, or of other regional offices. It recalls that *Article 4* of the Convention provides for the placing of the labour inspection system under the supervision and control of a central authority insofar as is compatible with the administrative practice of the Member. **The Committee once again requests the Government to provide information on the measures taken to ensure the effective functioning of the labour inspection system under the supervision and control of a central authority. It also once again requests the Government to provide information on the organization and functioning of the Labour Inspection and Industrial Relations Department, including its organizational chart, as well as an up-to-date list of inspection structures at labour offices in each of the states.**

Articles 20 and 21. Publication and communication to the ILO of an annual report. The Committee notes with **concern** that no annual inspection reports have been prepared or communicated to the ILO for more than 25 years. However, it welcomes the information provided by the Government in its report concerning the number of labour inspection and occupational safety and health visits undertaken. It notes the Government's statement that steps were taken towards the preparation of annual reports, including the identification of training needs and initiatives to facilitate the preparation of periodic reports by state labour offices. **The Committee urges the Government to take all possible measures to ensure that annual labour inspection reports are prepared, published and transmitted to the ILO, in accordance with Articles 20 and 21 of the Convention.**

The Committee is raising other matters in a request addressed directly to the Government.

Tajikistan

Labour Inspection Convention, 1947 (No. 81) (ratification: 2009)

Articles 3, 4, 5(b), 6, 8, 10, 11, 13, 17 and 18 of the Convention. Operation of the labour inspection system under the supervision and control of a central authority and duality of inspection functions assumed by state and trade union labour inspectors in this system. The Committee previously noted that responsibility for labour inspection falls within the State Inspection Service for Labour, Migration and Employment (SILME) of the Ministry of Labour, Migration and Employment, and the inspectorate established by the Federation of Independent Trade Unions (in view of the small number of the staff working at the SILME). The Committee notes the Government's indication, in response to its request, that at the end of 2016, there were 58 public labour inspectors and 36 trade union inspectors. In this respect, the Committee also notes from section 353 of the Labour Code that employers provide funds for the work of the trade union labour inspectorate. **The Committee once again requests the Government to provide information on whether the SILME maintains supervision and control over the labour inspection system in its entirety (including supervision of the activities of trade union inspectors), or whether the SILME and the inspectorate run by the Federation of Independent Trade Unions act independently from each other, except for the conduct of joint inspections. Noting that the Government has not provided information in this regard, the Committee also once again requests it to specify the status and conditions of service of labour inspectors serving in the SILME, in relation to the conditions applicable to similar categories of public servants and trade union inspectors (including concerning stability of employment, wages and allowances). Finally, the Committee requests the Government to indicate whether the trade union inspectorate of the Federation of Independent Trade Unions operates entirely on the budget from contributions of employers, and if not, to indicate the other sources of funding of its operation and their proportionate amounts.**

Articles 12 and 16. Powers of labour inspectors. The Committee notes that sections 357 and 358 of the Labour Code provide for certain powers of trade union and public labour inspectors, for instance the power to undertake labour inspections and request information on compliance with the legal provisions. It further notes that sections 19 and 348 of the Labour Code require employers to ensure free access of public labour inspectors to workplaces. The Committee notes, however, with **deep concern** that pursuant to Law No. 1505 of 21 February 2018 providing for a moratorium on inspections in industrial workplaces, the provisions in the Code regarding labour inspections are suspended during the period of application of Law No. 1505, which according to information on the website of the President of the country will be effective for a two-year period, following the issuing of a Governmental Decree. The Committee also notes with **concern** that the Law on Inspections of Economic Entities, adopted by Government Decision No. 518 of 2007, which applies to the labour inspectorate (among other inspection bodies) and to all sectors (not only industry), provides for a number of limitations on inspections. The Committee further notes with **concern** that the Law includes restrictions with regard to the frequency and duration of labour inspections (for example, section 10 of the Law provides that an inspection

body may not inspect an economic entity more than once every two years, or exceptionally for a high risk entity, not more than once every six months, and that new entities cannot be inspected until the end of their third year of registration), the need to give prior notice (for example, sections 11 and 13 of the Law provide that economic entities shall be notified three days before the initiation of inspections, except in emergency situations or aggravated sanitary situations (section 15)), and the limitations of the scope of inspections, particularly in terms of the issues to be inspected (section 13). *The Committee emphasizes that any moratorium placed on labour inspection is a serious violation of the Convention, and urges the Government to ensure that the necessary legislative measures are taken with a view to ending the moratorium on labour inspections in the industrial sector. The Committee urges the Government to take the necessary measures to ensure that labour inspectors are empowered to make visits without previous notice, and that they are able to undertake labour inspections as often and as thoroughly as is necessary to ensure the effective application of the legal provisions, in conformity with Articles 12 and 16 of the Convention.*

The Committee is raising other matters in a request addressed directly to the Government.

The former Yugoslav Republic of Macedonia

Labour Inspection Convention, 1947 (No. 81) (ratification: 1991)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1991)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Article 3(1)(a) and (2) of Convention No. 81 and Article 6(1) and (3) of Convention No. 129. Labour inspection activities with regard to foreign workers and the protection of foreign workers in an irregular situation. The Committee notes the Government's indication, in reply to its previous comments, that labour inspectors carry out the supervision of the implementation of the Law on Employment of Foreign Nationals (LEFN) during regular inspections in the areas of labour relations. The Committee notes that, pursuant to section 18(2) of the Law, the monitoring of its implementation shall be carried out by the State Labour Inspectorate (SLI) and pursuant to section 18(3), labour inspections related to work permits and illegal employment or work of foreign nationals may be carried out ex officio or at the request of the Employment Service Agency (ESA). The SLI is then obliged to submit reports every six months regarding the instituted procedures and imposed misdemeanour sanctions to the ESA pursuant to section 18(4) of the LEFN. Fines can be imposed not only on an employer or a facilitator of illegal work, but also on a foreign national if she or he does not present the work permit when requested by the SLI (section 27). The Committee recalls that, pursuant to *Article 3* of Convention No. 81 and *Article 6* of Convention No. 129, the functions of the system of labour inspection shall be to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. Further, in its 2006 General Survey, *Labour inspection*, paragraph 78, the Committee indicated that any function of verifying the legality of employment should have as its corollary the reinstatement of the statutory rights of all the workers if it is to be compatible with the objective of labour inspection, which is to protect the rights and interests of all workers and to improve their working conditions. Referring to paragraph 452 of the 2017 General Survey on certain occupational safety and health instruments, the Committee recalls that workers in a vulnerable situation may not be willing to cooperate with the labour inspection services if they fear negative consequences as a result of inspection activities, such as the loss of their job or expulsion from the country. *The Committee requests the Government to take specific measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors, which is to ensure the protection of workers in accordance with Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. It requests the Government to provide information on action undertaken by the inspectorate to ensure the enforcement of the rights of foreign workers found to be in an irregular situation. It further asks the Government to provide information on the number of cases in which foreign workers found to be in an irregular situation have been granted their due rights, such as the payment of outstanding wages or social security benefits.*

The Committee is raising other matters in a request addressed directly to the Government.

Uganda

Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)

Article 4 of the Convention. Supervision and control by a central authority. In its previous comments, the Committee had requested the Government to pursue its efforts in placing again the labour inspection system under the supervision and control of a central authority, following its decentralization in 1995. In this respect, the Committee recalls the reiterated discussion of the case by the Committee on the Application of Standards (CAS) of the International Labour Conference (in 2001, 2003 and 2008) and the conclusions of the CAS emphasizing the need for the inspection system to be under the responsibility of a central authority. The Committee notes the Government's indication in its report that the Ministry of Gender, Labour and Social Development (MGLSD) plays a supervisory role, although the system of labour

inspection is decentralized. The Government indicates that the MGLSD has started a process to amend the legislation and to place the inspection system under a central authority. ***The Committee urges the Government to pursue its efforts to place the labour inspection system under a central authority with a view to ensuring coherence in the functioning of the labour inspection system and to provide information on the steps taken in that regard, including a copy of any legislation adopted.***

Articles 10, 11 and 16. Resources of the labour inspection system and inspection visits. In its previous comments, the Committee had requested the Government to pursue its efforts to ensure that human and financial resources are allocated to labour inspection. The Committee notes that the Government indicates that the MGLSD has continued to ensure that human and material resources are allocated to labour inspection and that additional vehicles have been provided to the Department of Labour. However, the Committee notes the Government's indication that inadequate funding continues to represent a challenge. In addition, the Committee notes the 2016 report on the audit undertaken by the auditor general of the Department of Occupational Safety and Health (OSH) of the MGLSD on OSH enforcement activities. The report finds that: (a) out of an estimated 1 million workplaces in the country, only 476 were inspected between 2013 and 2015 (212 in 2012–13, 125 in 2013–14, and 139 in 2014–15, based on departmental annual performance reports); (b) the MGLSD procured analytical and clinical laboratory equipment, but the OSH Department has not fully trained inspectors on the use of the equipment; and (c) enforcement of the OSH legislation has not been effective due to limited personnel and logistics. With respect to personnel issues, the Committee notes that the report indicates that out of 48 approved staff positions, only 22 are currently filled. ***The Committee notes with concern the limited human and material resources allocated to labour inspection and urges the Government to take steps to ensure that there are a sufficient number of labour inspectors provided with adequate resources, including through the filling of vacant positions, in conformity with Articles 10 and 11 of the Convention, in order to ensure that workplaces are inspected as often as is necessary for the effective application of the relevant legal provisions, as required by Article 16 of the Convention.***

Articles 20 and 21. Publication and communication of an annual report on labour inspection. In its previous comments, the Committee had noted the Government's commitment to publish and submit to the ILO an annual inspection report on the work of the labour inspection services, pursuant to section 20 of the Employment Act 2006. The Committee notes the Government's indication that a draft annual report has been compiled. However, it notes with ***concern*** that no report has been published or submitted to the ILO. ***The Committee once again requests the Government to take the necessary measures to ensure that annual reports on labour inspection are published and communicated regularly to the ILO within the time limits set out in Article 20 and that they contain the information required by Article 21(a)–(g).***

The Committee is raising other matters in a request addressed directly to the Government.

Ukraine

Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)

Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2004)

The Committee notes the Government's report received by the Office on 14 August 2018, as well as the supplementary information received from the Government on 27 November 2018. The latter communication will be examined by the Committee at its next session as it was received too late to be examined at its current session.

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Conventions Nos 81 (labour inspection) and 129 (labour inspection in agriculture) together.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the 2018 conclusions of the Committee on the Application of Standards (CAS) on the application of Conventions Nos 81 and 129 by Ukraine, which called on the Government to: (i) take the necessary measures and appropriate reforms to bring their labour inspection services into line with the provisions of Conventions Nos 81 and 129; (ii) provide detailed information regarding the restrictions on the powers of labour inspectors contained in Act No. 877 and Ministerial Decree No. 295 and regarding the recent legislation enacted on the labour inspection system; (iii) promote effective dialogue with employers' and workers' organizations concerning labour inspection matters; (iv) ensure that the status and conditions of service of labour inspectors guarantee their independence, transparency, impartiality and accountability in line with the Conventions; (v) ensure that the inspection functions of the local authorities are placed under the supervision and control of the State Labour Service (SLS); and (vi) ensure that other functions entrusted to labour inspectors do not interfere with their primary duties and impact negatively on the quality of labour inspections.

Articles 12(1)(a) and (b), 16 and 17 of Convention No. 81 and Articles 16(1)(a) and (b), 21 and 22 of Convention No. 129. *Restrictions and limitations on labour inspection.* 1. *Moratorium on labour inspection.* The Committee previously noted the imposition of a moratorium on labour inspection between January and June 2015. It notes once more with **deep concern** that another moratorium had been imposed on labour inspection between 1 January 2018 and 22 February 2018. ***Recalling that a moratorium placed on labour inspection is a serious violation of these Conventions, the Committee urges the Government to ensure that no further restrictions of this nature are placed on labour inspection in the future.***

2. *Other restrictions.* In its previous comment, the Committee noted with concern that Act No. 877 (as amended in 2017) concerning the fundamental principles of state supervision and monitoring of economic activity, and Ministerial Decree No. 295 of 26 April 2017 on the procedure for state control and state supervision of compliance with labour legislation, provide for several restrictions on the powers of labour inspectors, including with regard to the free initiative of labour inspectors to undertake inspections without prior notice (section 5 of Decree No. 295 and section 5(4) of Act No. 877), the frequency of labour inspections (section 5(1) of Act No. 877), and the discretionary powers of labour inspectors to initiate prompt legal proceedings without previous warning (sections 27 and 28 of Decree No. 295). It urged the Government to take measures to bring the legislation into conformity with the Convention.

The Committee notes with **regret** that the Government has not provided any response to the request of the Committee on the measures taken to bring Act No. 877 and Ministerial Decree No. 295 into conformity with Articles 12(1)(a) and (b), 16 and 17 of Convention No. 81 and Articles 16(1)(a) and (b), 21 and 22 of Convention No. 129. The Committee also notes that the Government has not provided any further information on Bill No. 6489 (on amendments to certain laws concerning the prevention of excessive pressure on businesses due to state supervision of compliance with labour and employment legislation) which passed the first reading in Parliament in July 2017 and which makes the conduct of unscheduled inspection visits an administrative offence. ***The Committee urges the Government, in line with the 2018 conclusions of the CAS, to take the necessary measures and appropriate reforms to bring the labour inspection services into line with the provisions of Conventions Nos 81 and 129. In this respect, the Committee once again urges the Government to take the necessary measures to bring Act No. 877 and Ministerial Decree No. 295 into conformity with Articles 12(1)(a) and (b), 16 and 17 of Convention No. 81 and Articles 16(1)(a) and (b), 21 and 22 of Convention No. 129, and to ensure that no additional restrictions are adopted.***

Articles 4, 6, 7 and 11 of Convention No. 81 and Articles 7, 8, 9 and 15 of Convention No. 129. *Organization of the labour inspection system under the supervision and control of a central authority. Partial decentralization of labour inspection functions.* The Committee previously noted that pursuant to Decree No. 295 of 27 April 2017, applying section 259 of the Labour Code and section 34 of the Local Government Act, labour inspection functions were also assumed by the local authorities, in addition to the SLS. In this respect, the Committee recalled the importance of ensuring that organizational changes are carried out in conformity with the provisions of the Conventions.

The Committee notes the Government's reiterated indication, in response to the Committee's previous request concerning the placing of the labour inspection system under the supervision and control of a central authority, that efforts are being made to avoid duplication, including through: (i) the establishment of a joint register on the inspections undertaken by the SLS and the local authorities, implemented through an electronic system; (ii) the certification of "authorized officials" by the SLS (which the Government indicates are now 399 persons) and the possibility of the SLS to revoke their credentials if they systematically fail to duly exercise their monitoring powers; and (iii) the possibility by the SLS to repeal any instructions or orders by the local government bodies within ten days. The Government further indicates that "authorized officials" within the local government bodies have the free initiative to undertake labour inspections at any time of the day or night, without prior notice.

The Committee also notes that the Government reiterates that the local government authorities receive guidance, information and training from the SLS. It refers in this respect to several activities, including approximately 3,310 seminars, meetings and round tables on how to undertake inspections, 5,861 letters sent about the exercise of inspection powers, the provision of distance learning courses, and six joint trainings with the participation of 234 persons appointed to undertake inspections by the local bodies. The Committee notes that the Government has not provided the information requested on the status and conditions of service of the "authorized officials". ***The Committee requests the Government, in line with the 2018 conclusions of the CAS, to ensure that the inspection functions of the local authorities are placed under the supervision and control of the SLS. Because the Government has not provided a reply in this regard, the Committee once again requests the Government to indicate how it is ensured that the "authorized officials" from the local authorities performing labour inspection functions have the status and conditions of service guaranteeing their independence from any undue external influence (Article 6 of Convention No. 81 and Article 8 of Convention No. 129). In this regard, it requests the Government to indicate the legal provisions governing the conditions of service of these officials. It also requests the Government to provide more detailed information on how it is ensured that "authorized officials" working as labour inspectors have the adequate qualifications and training for the effective performance of inspection duties (Article 7 of Convention No. 81 and Article 9 of Convention No. 129). In this respect, it requests the Government to provide information on the recruitment procedures of these officials, including the qualifications required and if they include regular competitions as for SLS inspectors.***

Articles 10, 11 and 16 of Convention No. 81 and Articles 14, 15 and 21 of Convention No. 129. Material means and human resources to achieve an adequate coverage of workplaces by labour inspection. The Committee previously noted from the 2015 needs assessment undertaken by the ILO that increasing the number of labour inspectors and material resources (including transport facilities, registers and appropriate software) was essential for enhancing the number and quality of inspections. The Committee welcomes the Government's indication in its report that in July 2018 there were 615 labour inspectors (up from 542 inspectors noted in 2017) and 904 established posts (up from 765). The Government also refers to regular recruitment competitions to fill vacant positions. The Committee further notes the Government's indication, in response to the Committee's request, that 585.2 million Ukrainian hryvnia (approximately US\$671.7 million) were allocated for labour inspection in the 2018 State Budget Act, but that this Act was not implemented. ***Noting that almost one third of the posts remain unfilled, the Committee requests the Government to continue to provide information on the filling of the vacant posts, with a view to ensuring that the number of inspectors is sufficient for the effective performance of their duties. The Committee also requests the Government to continue to provide information on the measures taken to improve the budgetary situation of the SLS, including the material means at its central and local levels. In addition, the Committee once again requests the Government to provide information on the material resources (offices, office equipment and supplies, transport facilities and reimbursement of travel expenses), at the central and local levels of the SLS.***

Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. Additional functions entrusted to labour inspectors. The Committee notes that the Government has not responded to the conclusions of the CAS that the Government ensure that other functions entrusted to labour inspectors do not interfere with their primary duties. ***The Committee urges the Government to list any other functions entrusted to SLS inspectors or "authorized officials" from the local authorities, and to explain how those functions are constrained from interfering with inspectors' discharge of their duties to secure the enforcement of labour laws and the protection of workers.***

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 63** (Myanmar); **Convention No. 81** (Albania, Angola, Antigua and Barbuda, Australia, Bahamas, Bangladesh, Barbados, Plurinational State of Bolivia, Central African Republic, Chad, Croatia, Djibouti, France: French Polynesia, Ghana, Grenada, Guinea-Bissau, Hungary, India, Indonesia, Jamaica, Kyrgyzstan, Luxembourg, Malawi, New Zealand, Nigeria, Norway, Pakistan, Poland, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Sudan, Suriname, Switzerland, Tajikistan, United Republic of Tanzania: Tanganyika, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Uganda, Ukraine, Uruguay); **Convention No. 129** (Albania, Plurinational State of Bolivia, Croatia, France: French Polynesia, Hungary, Luxembourg, Norway, Poland, Romania, Saint Vincent and the Grenadines, Serbia, Slovakia, Slovenia, The former Yugoslav Republic of Macedonia, Ukraine, Uruguay); **Convention No. 150** (Belize, Democratic Republic of the Congo, Dominica, Kyrgyzstan, Malawi, Niger, Russian Federation, Serbia, Suriname, The former Yugoslav Republic of Macedonia, Trinidad and Tobago); **Convention No. 160** (Kyrgyzstan).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 150** (Luxembourg).

Employment policy and promotion

Albania

Employment Policy Convention, 1964 (No. 122) (ratification: 2009)

Articles 1 and 2 of the Convention. Implementation of an active employment policy. Employment trends. The Committee notes with **interest** the sustained efforts made by the Government to improve the employability of the labour force, reduce poverty and improve the technical vocational education and training system, placing a focus on young persons and specific groups vulnerable to decent work deficits. In this context, the Committee notes the information provided by the Government on the reorganization of the National Employment Service (NES), enhancing its administrative and training capacities. The NES reform focused on the implementation and evaluation of active labour market policies (ALMPs). As a result, employment offices have introduced a new service model concentrated on the reorganization of working environments, the introduction of jobseekers and employers, offering services in conformity with the European Union Public Employment Services Standards, reviewing existing ALMPs and adapting the respective regulatory framework. The NES reform has led to a transformation of the public employment offices, entailing the modernization of the infrastructure as well as the reconceptualization and computerization of services. The Committee further notes that the reform envisages the reduction of gender skills gaps to increase women's employability, as well as to address the needs of specific groups, such as the Roma and other ethnic minorities, persons with disabilities and persons residing in rural or remote areas, to ensure their inclusion in the labour market. In addition, 21 new employment offices have been established at the regional and local levels. The Committee also notes that the National Employment and Skills Strategy 2014-2020 and its Action Plan, developed with ILO assistance, aims to provide a comprehensive policy framework for better jobs and increased skills. According to the 2017–21 Decent Work Country Programme (DWCP) for Albania, the country's economic development over the past decade has been accompanied by positive changes in general employment and the reduction of poverty rates. The Committee notes that, while this growth was reflected in reduced rates of unemployment in general, according to the DWCP, the growth in the Albanian economy did not always lead to the creation of more jobs, particularly for women and young persons. High youth unemployment rates remain a concern for the Government, particularly given that close to 42 per cent of the population is under the age of 30. The Committee notes in this regard that, in the first quarter of 2018, the unemployment rate of persons aged 15–29 (24.5 per cent) was nearly twice as high as the general unemployment rate of persons aged 15 and above (12.5 per cent). The unemployment rate has decreased for both age groups since the first quarter of 2016, from 30.4 per cent for young persons aged 15 to 29 and 16.6 per cent for those aged 15 and over. During the same period, the employment rate increased from 47.5 per cent to 51.9 per cent for persons above the age of 15 and from 32.1 per cent to 35.9 per cent for those aged 15 to 29. In the first quarter of 2018, labour force participation rates stood at 59.3 per cent (67.4 per cent for men and 51.3 per cent for women) for those aged 15 and above and at 47.5 per cent for persons between 15 and 29 (54.9 per cent for men and 39.7 per cent for women). ***The Committee requests the Government to continue to provide information on progress made with respect to the formulation and adoption of an active employment policy, in consultation with the social partners, as well as on the impact of active labour market measures implemented to promote full, productive and freely chosen employment. It further requests the Government to supply updated information in its next report on employment trends, including on employment, unemployment and underemployment; also statistical information disaggregated by sector, age and sex. Furthermore, the Committee requests the Government to provide information on measures taken to improve the employment situation of groups vulnerable to decent work deficits, including women, young persons, persons with disabilities, rural workers, workers belonging to the Roma and other ethnic minorities, and those in the informal economy. The Committee further requests the Government to provide information on measures taken or contemplated to improve job creation and increase labour market participation, particularly for young persons.***

Vocational education and training. The Committee notes that, according to the DWCP, NES surveys carried out in Albania in 2008, 2010 and 2012 found that there were skills gaps in all sectors of the economy. Moreover, Technical Vocational Education and Training (TVET) is offered in 53 existing schools, which are almost all located in urban areas. The Committee notes the adoption of Law No. 15/2017 on Vocational Education and Training of 16 February 2017, which seeks to enhance skills development to address the skills gap. It also notes the adoption of Decision No. 64 on the Employment Promotion Program of Young People who gained the Status of Orphans, of 27 January 2016, as well as the support received during 2010–17 from the German Federal Ministry for Economic Cooperation as part of the “Vocational education and training (VET) programme”. The Committee also notes the information provided concerning the current United Nations Development Programme project, implemented in cooperation with the Ministry of Social Welfare and Youth, which aims to improve youth employment opportunities in the Lezha, Kukës, and Shkodra regions, all of which have high unemployment rates. In particular, the Committee welcomes the project's focus on young persons with disabilities, with the objective of creating employment opportunities to promote their sustainable inclusion in the labour market. ***The Committee requests the Government to continue to provide information on the impact of the measures taken in the area of TVET and on their relation to prospective employment opportunities. It also requests the Government to indicate the manner in which the social partners and other stakeholders concerned are consulted with respect to the development of TVET programmes.***

Article 3. Consultation with the social partners. The Committee notes that the Government has not provided information on this point. ***It therefore reiterates its request that the Government provide information on the activities of the Tripartite Administrative Council and National Labour Council with respect to the formulation and implementation of active labour market measures. It also requests the Government to indicate the nature and outcome of consultations held with representatives of persons affected by the measures taken or envisaged.***

Algeria

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 2006)

The Committee notes that the Government's report does not contain a response to the observations made on 31 May 2015 by the General and Autonomous Confederation of Workers in Algeria (CGATA) regarding the provisions of the draft Labour Code, referred to in the Committee's previous comments. ***The Committee reiterates its request that the Government provide its comments in this respect.***

Articles 1(1)(a) and (b), 2(4) and 3 of the Convention. Private employment agencies. Exclusions. Conditions governing the operation of private employment agencies. The Government reports that, as of May 2017, there were 29 certified private employment agencies (PEAs) operating in the country. The Committee notes the Government's indication that, pursuant to the laws and regulations currently in force – Law No. 04-19 of 25 December 2004 on the Placement of Workers and Supervision of Work and Decree No. 07-123 of 24 April 2007 – PEAs are not authorized to mediate jobseekers abroad, to place foreign jobseekers in employment in Algeria, or to employ workers with a view to making them available to a third party. The Government states that, at present, PEAs are authorized only to provide services consisting of matching offers of and applications for employment, as contemplated in *Article 1(1)(a)* of the Convention. It notes that the draft Labour Code, on which the Government is consulting the social partners, will expand the scope of activities in which certified PEAs may engage, to include services to be offered by temporary work agencies (TWAs) in the sense of *Article 1(1)(b)* of the Convention, with a view to facilitating the employment of part-time and unemployed workers and enabling the user enterprise to meet temporary demands for labour. The Government adds that the draft Labour Code will also cover subcontracting activities with a view to combating informal work and illicit subcontracting activities. ***The Committee requests the Government to indicate whether private employment agencies operating in the country carry out placement activities. Noting that the Government has been pursuing the development of the draft Labour Code for a number of years, the Committee requests the Government to provide information on progress made in relation to the development and adoption of the draft Code, and to provide copies of the Code and its implementing regulation once adopted. In this regard, the Committee recalls that it may avail itself of technical assistance from the Office, should it so wish. The Committee further requests the Government to provide information on the provisions of the draft Labour Code mentioned in its report, concerning the certification of the activities of TWAs, the circumstances in which recourse may be made to their services, the status and rights of their employees, and the nature of the contract between the TWA and its employees.***

Article 5(1). Non-discrimination. Referring to its previous comments, the Committee notes that the Government's report does not contain information concerning concrete measures taken to ensure that PEAs do not subject workers to any of the types of discrimination covered by the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). ***Recalling that it has been making comments for a number of years in relation to the need to take measures to ensure that PEAs do not engage in discrimination, the Committee reiterates its request that the Government provide detailed information on concrete measures taken to ensure that PEAs treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination prohibited under national law and practice.***

Article 5(2). Special services and targeted programmes to assist the most disadvantaged workers. The Committee notes the Government's indication that the cooperation agreement of 25 January 2012 between the National Employment Agency (ANEM) and certified PEAs focuses particularly on the placement of young persons and the long-term unemployed. The agreement stipulates that ANEM will provide technical support to these PEAs in relation to job placement activities, as well as training in career counselling and statistics. ***The Committee once again requests the Government to provide information on the manner and extent to which PEAs are engaged in the practical implementation of special services or targeted programmes to assist the most disadvantaged workers in their job-seeking activities (Article 5(2)).***

Article 8. Protection of workers in a cross-border context. The Committee notes the Government's indication that PEAs are not authorized to place foreign workers in Algeria. ***The Committee requests the Government to provide information on the measures adopted to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by PEAs, as well as on the penalties provided for under national laws or regulations in the event of fraud or abuse. The Government is further requested to provide information on consultations held with the representative organizations of employers and workers in this respect, as required by Article 8(1) of the Convention.***

Article 9. Measures to prevent child labour. The Government reports that the draft Labour Code is expected to contain provisions prohibiting the use of child labour in TWAs and user enterprises. ***Recalling the comments it has been making for a number of years under the Worst Forms of Child Labour Convention, 1999 (No. 182), and the Minimum***

Age Convention, 1973 (No. 138), the Committee urges the Government to take measures to ensure without delay the adoption of protective measures ensuring that child labour is not used or supplied by PEAs.

Articles 10 and 14. Inspections and adequate complaint machineries and procedures. The Government reports that the labour inspection service and the employment administration are responsible for supervising the activities of PEAs, adding that the draft Labour Code, once adopted, will further strengthen controls and labour inspection capacity. *Taking note of the types of abuses and fraudulent activities in which certain PEAs have engaged, as described in the Government's report, the Committee reiterates its request that the Government provide information illustrating how the procedures currently in force ensure an effective examination of alleged abuses and fraudulent practices relating to the activities of PEAs, to indicate the nature and number of the complaints received, and the manner in which they have been resolved (Article 10). The Government is further requested to specify the remedies, including penalties, where appropriate, imposed in case of violations of the Convention (Article 14).*

Articles 11 and 12. Ensuring adequate protection for workers. Allocation of responsibilities of PEAs and user enterprises. The Government indicates that the draft Labour Code, once adopted, will regulate the status and rights of employees of TWAs and establish the modalities of the contract between the TWAs and the user enterprise on the basis of which a worker may be made available to the user enterprise. *The Committee requests the Government to indicate the manner in which the current legislation ensures adequate protection of the rights of workers employed by PEAs, in relation to all the rights set out in Article 11(a)–(j), of the Convention, as well as the manner in which it is envisaged that the draft Labour Code or other measures would ensure equivalent or increased protection. It requests the Government to indicate the measures taken to determine and allocate the responsibilities of TWAs and user enterprises in relation to each of the matters set out in Article 12(a)–(i).*

Article 13. Effective cooperation between the public employment service and PEAs. In response to the Committee's previous comments in relation to the cooperation agreement of 25 January 2012 between the ANEM and certified PEAs, the Government indicates that the nature of the information that PEAs must provide to ANEM and its frequency are regulated by executive decree. *The Committee reiterates its request that the Government provide examples of the information submitted to the National Employment Agency by private employment agencies (Article 13(2)), as well as a copy of the abovementioned executive decree to the Office and that it specify the nature and frequency with which this information is made available to the public (Article 13(3)).*

Armenia

Employment Policy Convention, 1964 (No. 122) (ratification: 1994)

The Committee notes the observations of the Republican Union of Employers of Armenia (REUA) and the Confederation of Trade Unions of Armenia (CTUA), received together with the Government's report. *The Government is requested to provide its comments in this respect.*

Article 1 of the Convention. Employment trends and implementation of an active employment policy. The Government reports that, to reduce the risk of corruption, evaluate the level of satisfaction of beneficiaries and improve the effective implementation of programmes carried out under the 2013–2018 Employment Strategy, in 2016, the Government evaluated 14 programmes in different regions, soliciting the views of employers. In addition to shifting the exchange of information and the provision of assistance to electronic means, the evaluation also led to increased individualization of services to jobseekers. The Government reports that, at the end of 2016, there were 95,800 registered jobseekers (62,200 women and 22,300 young persons), out of which 85,500 persons (84 per cent) were unemployed. In 2016, 9,546 persons found employment – 6,912 of whom were not registered in government employment programmes – 66 per cent of these were women and 30.9 per cent were young persons. The Committee notes the presence of regional disparities in this regard, with the highest numbers reported for Yerevan (2,391 women and 716 young persons) and the lowest in Vayots Dzor (156 women and 109 young persons). In the same year, through assistance programmes directed at the rural economy in the form of seasonal employment and paid public works, 13,006 jobseekers (13.6 per cent) participated in active labour market measures of which 3,768 (74 per cent) were women and 1,878 (36.8 per cent) were young persons. *The Committee requests the Government to provide detailed updated information, including statistical data disaggregated by year, sector, sex and age, on employment trends in the country, specifically on employment, unemployment and underemployment. It also asks the Government to provide information on the impact of the active labour market measures implemented in the different regions of the country.*

Groups vulnerable to decent work deficits. In its observations, the trade union maintains that the Government's efforts to reduce unemployment and poverty, as detailed in its report, are insufficient. It calls for projects to be implemented that target women, young persons and persons with disabilities. The Committee notes the detailed information provided by the Government in respect of the situation of women and young persons. The Government indicates that it is conscious of the high unemployment rate for women: 66 per cent. The unemployment rate for young persons was 23.7 per cent. In this regard, the Committee notes the diverse programmes and initiatives primarily directed at young persons in urban as well as rural areas – in particular with regard to vocational guidance, which aims to raise awareness of labour market needs and improve employability. *The Committee requests the Government to provide information on the results of the measures and programmes implemented to promote the employment of groups*

vulnerable to decent work deficits, including women, young persons and persons with disabilities. In regard to active labour market measures directed at young persons, the Government is requested to provide information on the impact of the measures taken in the area of vocational education and training and on their relation to improving the employability of young persons.

Article 2. Implementation of active labour market measures. In response to the Committee's previous comments, the Government indicates that, while obstacles remain in terms of improving cooperation between private employment agencies and the Armenian State Employment Agency, financial payments are made to private employment agencies that recruit persons who are difficult to place in the labour market. ***The Committee requests the Government to continue providing information on measures taken or envisaged to strengthen cooperation between the public employment services and private employment agencies. The Committee also requests the Government to provide information on the number of persons so recruited, the criteria used to identify persons who are difficult to place in the labour market, and the placement results obtained by private employment agencies.***

Undeclared work. In response to the Committee's previous comments, the Government reports that 2,241 undeclared workers were detected in 2017. The Government refers to the Tax Code of the Republic of Armenia, which entered into force on 1 January 2018, and provides for the electronic registration of all employees before they commence their employment. ***The Committee requests the Government to continue providing information on the measures taken or envisaged to reduce the number of undeclared workers and facilitate their integration into the formal economy.***

Article 3. Consultation of the social partners. The Government indicates that, on the basis of the new collective contract, the Government and the social partners typically decide on and implement active labour market measures in the Republican Tripartite Committee, which meets at least on a quarterly basis. ***The Committee requests the Government to provide more detailed information on the activities of the Republican Tripartite Committee and other tripartite committees at the national and regional levels, with respect to the development and implementation of active labour market measures and programmes.***

Bosnia and Herzegovina

Employment Policy Convention, 1964 (No. 122) (ratification: 1993)

The Committee notes the observations of the Confederation of Independent Trade Unions of Bosnia and Herzegovina (SSSBiH) and the International Trade Union Confederation (ITUC) received on 1 September 2017. ***The Committee requests the Government to provide its comments in this respect.***

Articles 1 and 2 of the Convention. Implementation of an active employment policy. In their observations, the workers' organizations allege that the Government has failed to declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment. They stress that the employment situation in both Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS) is dire, with extremely high rates of unemployment, citing a 28 per cent general unemployment rate and youth unemployment rates exceeding 60 per cent. The Committee notes the Government's indication that, pursuant to the Law on Employment Intermediation and Social Security of Unemployed Persons of the FBiH, the relevant authorities of the FBiH or Cantons are responsible for establishing measures to increase employment rates and improve the situation of employed persons. The FBiH adds that the work plan of the FBiH Employment Institute provides for the various forms of support for the promotion of employment, self-employment, preparation for entering the labour market; and professional development and training. These measures seek to integrate unemployed persons into the labour market, particularly in relation to persons belonging to hard-to-employ categories of unemployed persons. The Committee notes that section 23 of the Law gives priority to persons with disabilities in employment. With respect to the Brčko District of BiH, the Committee notes that the Law on Employment and Rights during Unemployment and the Labour Law of the Brčko District provide for professional training, preparation for employment and special protections for women, minors and persons who are not fit for work. In relation to the RS, the Committee notes that the RS Employment Strategy 2011–15 established a system for the registration of unemployed persons with the RS Employment Bureau (RSEB). The Committee notes the Government's indication that the RSEB implemented three projects providing support for employment in the RS from 2013 to 2015, through which a total of 4,522 persons were employed. In October 2016, the RS National Assembly adopted the RS Employment Strategy 2016–20, which seeks to increase employment and stimulate economic activity in RS through the implementation of thirteen operational goals and fifty specific measures. The Committee notes the Government's indication that, according to the records of the RSEB, implementation of these measures led to the employment of 34,593 persons in 2015. The Government adds that the measures set out in the RS Employment Action Plan for 2017 seek, inter alia, to structurally reform the role of the RSEB and focus its activity on employment intermediation. ***The Committee requests the Government to provide detailed updated information, including statistical data disaggregated by sex, age and administrative entity, on the impact of the policies and measures implemented to promote full, productive and freely chosen employment, including the employment promotion activities carried out under the Employment Strategy of Republika Srpska 2016–20.***

Employment trends. The FBiH reports that there were a number of positive changes in the labour market in 2016. The RS indicates that a gradual stabilization of the labour market began in 2013, adding that numerous measures taken by

the RS and other stakeholders addressed the increasing unemployment rate. The Committee notes that, according to data from the FBiH Statistics Institute, 457,974 workers were employed in the FBiH in 2016. It further notes that data from the Labour Force Survey indicates that the employment rate in the FBiH stood at 30.5 per cent in 2016, while the average unemployment rate was 25.6 per cent, a reduction of 3.31 per cent in comparison with the 2015 average. The Committee notes the high unemployment rate among young persons 15–24 years of age, which decreased from 64.9 per cent in 2015 to 55.1 per cent in 2016. The Committee further notes that, according to the ILOSTAT database, the general unemployment rate for young persons was 45.8 per cent in 2017. At the end of 2016, the largest percentage of those registered as unemployed in the FBiH (44.24 per cent) were in the 30–49 age group, followed by persons under the age of 30 (32.5 per cent) and persons over the age of 50 (25.26 per cent). In 2016, 133,037 persons were removed from the records of the Cantonal employment services, 115,379 persons were registered as unemployed and 92,263 persons were placed in employment. This represents an increase of 15,671 in comparison with 2015. According to the ILOSTAT database, in 2017, the general unemployment rate was 20.5 per cent, whereas the unemployment rate for men and for women was 18.9 per cent and 23.1 per cent, respectively. ***The Committee requests the Government to continue to provide statistical data disaggregated by sex and age concerning the size and distribution of the labour force, including the size of the informal economy and employment trends in relation to employment, unemployment, and visible underemployment.***

Undeclared work. In their observations, the workers' organizations indicate that the informal economy is widespread, maintaining that the Government has not made serious efforts to tackle this issue effectively. They emphasize that nearly one-third of all persons who are employed are working in the informal economy, trapped there primarily due to poor access to the labour market, slow job creation in the formal economy and the lack of skills matching labour market demands. They add that workers in rural areas face a higher probability of remaining in informal employment in comparison with workers in other sectors. The Committee notes that, according to the RS Employment Strategy 2016–20, informality is predominately present in agriculture, making up about two-thirds of informal employment, with informal employment concentrated among the rural population. ***The Committee therefore once again requests the Government to provide detailed updated information on the measures taken or envisaged to facilitate the transition of undeclared workers in the informal economy to employment in the formal economy, with special attention to the agricultural sector and rural communities.***

Workers vulnerable to decent work deficits. The FBiH indicates that a number of gender-sensitive programmes implemented by the FBiH Employment Institute focus on specific groups of workers vulnerable to decent work deficits: women; young persons; persons with disabilities; persons belonging to the Roma community; persons over the age of 40; and the long-term unemployed. The RS reports that 2,859 persons were employed through Social Safety Nets and the Employment Support Project. In addition, 543 persons were employed in 2015 through a project to support the employment of persons over the age of 45 and 135 persons were employed through an employment support project targeting the Roma minority from 2011 to 2015. It adds that the RS Employment Action Plan for 2017 sets out a number of measures aimed at increasing the employability of persons under the age of 30, persons over the age of 50 and persons belonging to the Roma community. In their observations, the workers' organizations allege that the 2015–18 Reform Agenda fails to address the interests of women, workers in the informal economy and workers with disabilities. In addition, the workers' organizations observe that women have low participation levels in political and public affairs, noting that the gender pay gap in BiH is larger than the EU average. ***The Committee requests the Government to provide detailed updated information, including statistical data disaggregated by age and sex in the three administrative entities, on the nature and impact of measures taken to promote full, productive, freely chosen and sustainable employment for persons vulnerable to decent work deficits, including women, young persons, persons over the age of 50, informal workers, the long-term unemployed, persons with disabilities and members of the Roma community. Noting, moreover, the gender pay gap and the higher rates of unemployment for women, the Committee requests the Government to provide information on specific measures taken to promote employment for women at all levels and across all sectors, including in decision-making positions.***

Employment of young persons. The Committee notes that, according to the ILOSTAT database, the youth unemployment rate in the country stood at 45.8 per cent in 2017. The Committee notes that both FBiH and the RS took measures to promote the employment of young persons. In this regard, the RSEB implemented five projects from 2011 to 2014 to support young persons in gaining work experience, through which 3,650 persons were employed as trainees. Furthermore, the RS Employment Action Plan for 2017 contemplates the promotion of socially useful employment for youth, for which 50,000 Bosnian convertible marka (BAM) are allocated. In their observations, the workers' organizations express concerns in relation to the high rate of youth unemployment and the likelihood that they will remain in long-term unemployment and the mass exodus of young educated persons from the country seeking work elsewhere. ***The Committee requests the Government to provide updated detailed information, including disaggregated statistical data on the impact of the measures taken by the three administrative entities of the country to promote full, productive, freely chosen and lasting employment for young workers.***

Vocational education and training. The Committee notes that the FBiH Employment Institute and the Cantonal employment services are responsible for implementing the Job Preparation Programme: from Training to Employment, which provides co-financing for the training of unemployed persons to enable them to acquire professional skills tailored

to the needs of employers. In respect of the RS, the Committee notes the establishment of 11 job clubs and 6 Information, Counselling and Training Centres which provided job search assistance to more than 34,376 beneficiaries from 2011 to 2015, leading to the employment of 9,172 persons. Furthermore, the RS Employment Action Plan for 2017 contemplates the development, financing and delivery of training aimed at enhancing the employability of active jobseekers, for which BAM500,000 are allocated. ***The Committee requests the Government to continue to provide information on the nature and impact of measures taken to improve vocational education and training and on their impact on the employability and competitiveness of the national labour force.***

Article 3. Consultation with the social partners. The Committee notes the Government's indication that the tripartite FBiH Economic and Social Council discusses all measures related to economic and social policy prior to their formal adoption and that the RS Employment Action Plan for 2017 was adopted after consultation with the social partners. In their observations, the workers' organizations allege that the social partners were not able to participate in the development and implementation of the 2015–18 Reform Agenda and that this lack of participation and transparency continued in relation to laws and policies adopted by regional governments in 2016. They further allege that the 2015 Labour Law undermines the strategic position of trade unions and collective agreements. ***The Committee requests the Government to provide detailed information on the nature and extent of the involvement of the social partners in the development, implementation, monitoring and review of employment policy measures and programmes in the different administrative entities.***

Brazil

Employment Policy Convention, 1964 (No. 122) (ratification: 1969)

The Committee notes the observations of the Trade Union of Pernambuco Doctors (SIMEPE) and the Federal Council of Medicine (CFM) of 21 January 2015, as well as the Government's response thereto, dated 5 November 2015. In addition, the Committee notes the observations of the Single Confederation of Workers (CUT) of 1 September 2017, as well as the observations of the National Association of Labour Court Judges (ANAMATRA) received on 1 June 2018. ***The Committee requests the Government to provide its comments in respect of the observations made by the CUT and ANAMATRA.***

Legislative developments. In its observations, the CUT alleges that the Labour Reforms (*Reforma Trabalhista*) introduced by Law No. 13467 of 13 July 2017, which modified the Consolidated Labour Law of 1943, substantially alter Brazilian employment policy. The CUT observes that, from the workers' perspective, the Labour Reforms will have extremely negative impacts on the creation of decent jobs and thus directly contravene the objectives of the Convention. In particular, the CUT recalls that *Article 1* of the Convention requires the national employment policy to be designed with the objective of promoting full, productive and freely chosen employment. It adds that the jobs to be created through the vehicle of public policies should be productive and freely chosen, and workers should not be subjected to socio-economic conditions that force them to accept any kind of job in order to survive. In this context, the CUT points to section 442-B of Law No. 13467, which establishes the category of the "autonomous exclusive" who may work exclusively and continuously for an employer, yet not be considered an employee as defined under the Consolidated Labour Law. The CUT alleges that section 442-B destroys the very notion of employment, employer and employee, directly affecting employment policy. Moreover, the CUT alleges that the Labour Reforms were adopted in contravention of *Article 3* of the Convention, as they were approved without any consultation with the workers' organizations or the persons affected. ***While noting that the Government has not yet provided its comments in response to the observations of the CUT and ANAMATRA, the Committee nevertheless requests the Government to provide detailed information on the manner in which Law No. 13467 – particularly section 442-B – has been applied, and to communicate copies of any judicial decisions concerning the application of the provisions of this Law.***

Article 1 of the Convention. Implementation of an active employment policy in the framework of a coordinated social and economic policy. Employment trends. In its previous comments, the Committee requested the Government to continue providing detailed information on the policies implemented and the measures adopted to achieve the objectives of the Convention, as well as information on the impact of the Programme to Accelerate Growth (PAC) and the Better Brazil plan (*Brasil Maior*) plan in promoting productive employment. The Government reports that its strategy to create jobs and generate income is centred on stimulating innovation and productive activity through the provision of credit, which it considers to be a sustainable means of integrating persons into the productive economy. It adds that the objective of its Programme for Employment Creation and Income Generation (FAT-PROGER) is to stimulate income generation through providing lines of credit at subsidized rates, with the aim of promoting increased production, thus increasing demand for labour. The Government indicates that FAT-PROGER makes long-term investments in small businesses, cooperatives and productive associations and is present in 3,600 municipalities. The Government indicates that, in 2016, FAT-PROGER granted 5 billion Brazilian reais (BRL) in credit lines for businesses. The Government also highlights the INOVACRED Programme, which forms part of the *Brasil Maior* plan, with the aim of supporting economic growth by investing in innovation. From 2014 to 2017, INOVACRED made BRL533 million available to companies for this purpose. In addition, the National Programme for Guided Productive Microcredit (PNMPO) extends microcredit to small entrepreneurs through a network of specialized institutions that also provide technical guidance necessary for the

sustained development of these undertakings. In 2016, the PNMPPO made BRL11.18 billion available to 3.7 million beneficiaries. The Government notes that women make up 60 per cent of PNMPPO clients, and that 90 per cent of all clients are own-account operators. The Committee also notes the rise in unemployment which, according to data published by the Economic Commission for Latin American and the Caribbean (ECLAC), rose to 13.7 per cent in the first quarter of 2017, falling in the third quarter to 12.4 per cent. ***The Committee requests the Government to provide updated detailed information, including statistical data disaggregated by sex and age on trends in urban and rural areas and in the different regions, on employment, unemployment and visible underemployment. It further requests the Government to continue to provide comprehensive information on measures taken or envisaged to achieve the objectives of the Convention, as well as on the impact of such measures.***

Education and vocational training. Groups vulnerable to decent work deficits. In its previous comments, the Committee requested the Government to continue to provide information on measures adopted to increase the labour market participation of specific groups, such as young persons, older workers, female jobseekers, migrant workers, ethnic minorities and persons with disabilities. The Government reports that the National Skills Plan (PNQ) was restructured in April 2017 and is now known as the Brazilian Programme for Social and Professional Skills (*Qualifica Brasil*). Its objective is to promote qualification and professional certification in the framework of the unemployment insurance programme within the National Employment Service (SINE). *Qualifica Brasil* places priority on specific groups, including the unemployed, those working in jobs affected by technological changes, young persons and others. It offers qualification courses, including distance learning and free courses at participating institutions, and professional certification recognizing acquired knowledge, competencies and professional experience. The Committee notes the Government's indication that, according to the Brazilian Statistical and Geographical Institute (IBGE), more than 40 million people – almost half of young persons between 15 and 29 – are interested in professional courses, but only 2.2 per cent have the means to do so. With respect to youth employment, the Government indicates that the programme *Projovem Trabalhador – Juventude Cidadã* of the Ministry of Labour and Employment is being restructured. The programme, which seeks to prepare young persons aged between 18 and 29 years for the labour market, benefited 1,331,948 young people between 2008 and 2013. The Government also refers to the Pronatec programme created in 2011 to extend technical and professional education courses, indicating that in the second half of 2017, the Ministries of Labour and Education will launch a study analysing the placement of qualified young persons in the labour market. In addition, the Government refers to the Brazilian apprenticeship programme, which aims to promote the professional qualification and integration of young persons aged 14–24 into the labour market. According to the data published by the Ministry of Labour, from 2005 to 2017, 3,051,942 young persons participated in the apprenticeship programme. ***The Committee reiterates its request that the Government provide information on the measures adopted to increase the labour market participation of groups vulnerable to decent work deficits, such as young persons, older workers, women jobseekers, migrant workers, ethnic minorities and persons with disabilities.***

The More Doctors (Mais Médicos) Programme. In their observations, the SIMEPE and CFM allege non-observance of a number of ILO Conventions, including Convention No. 122, in relation to the More Doctors (*Mais Médicos*) Programme. They indicate that in creating the programme, the Government engaged the services of Cuban doctors working for the Cuban Ministry of Health as cheap labour, paying them less than Brazilian doctors, under conditions in which they were not able to freely choose their employment. Moreover, the SIMEPE and CFM allege that the Cuban doctors were being sent to Brazil as medical exchange students, to perfect their skills, and were restricted from practising medicine, whereas in reality they worked providing healthcare services in rural areas for the State Health Service (SUS). In its 2015 response, the Government indicates that the project was established to address the shortage of doctors in the country, particularly in rural areas, and selects both Brazilian and non-Brazilian medical graduates to provide primary care services in underserved areas. The Government indicates that the project is an international medical exchange programme rather than an employment relationship *sensu stricto*, referring to Law No. 12.871/2013, which created the programme, section 17 of which provides that “the activities carried out in the More Doctors Programme do not create any relationship”. The Government adds that the activities carried out are not for economic gain, but that the participating doctors receive scholarships and other allowances for their travel and installation expenses and that, after the first year, it was able to attract participants from more than 40 different nationalities, in addition to Cuban doctors employed by the Cuban Ministry of Health. The Government indicates that the programme combined a set of incentives – educational, monetary, regulatory and clinical support – to attract doctors to the most underserved areas. ***The Committee requests the Government to provide information on the current status of the More Doctors Programme, including statistical information disaggregated by nationality, on the number of participants, as well as information on the conditions afforded by the programme, including the amounts received in the form of remuneration, allowances, etc.***

Article 3. Consultations with the social partners. Noting the CUT's observations concerning the adoption of the Labour Reforms, the Committee requests the Government to provide updated information on consultations held with the social partners and affected persons with respect to the development and implementation of employment policy and active labour market measures, including for groups vulnerable to decent work deficits.

Canada

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

The Committee notes the observations made by the Canadian Labour Congress (CLC), received on 31 August 2017 and later transmitted with the Government's report together with the observations of the Quebec Employers' Council (CPQ).

Articles 1 and 2 of the Convention. Employment trends and active labour market measures. In its previous comments, the Committee requested the Government to indicate how, pursuant to *Article 2* of the Convention, it keeps under review the measures and policies adopted according to the results achieved in pursuit of the objectives of the Convention specified in *Article 1*. The Committee notes the detailed information provided by the Government concerning the labour market measures adopted and envisaged at the federal and provincial levels. The Government indicates that over 2 billion Canadian dollars (CAD) are invested each year in the Labour Market Development Agreements (LMDAs) with provinces and territories to support the unemployed with employment assistance and training. Under the LMDAs, employment benefits enable current and former Employment Insurance (EI) claimants to gain skills and work experience through a combination of interventions, such as training and wage subsidies. The Government adds that the EI Act was amended in 2016 and 2017 with a view to eliminating the higher EI eligibility requirements that restricted the access for new entrants and re-entrants to the labour market, extending the definition of former claimants from three to five years, and broadening worker eligibility to allow under-represented groups to access EI-funded skills training and employment support under the LMDAs. However, the CLC points out that the Government did not invest in significantly wider access to EI regular benefits, therefore workers may find themselves with access to EI-funded training opportunities, but without income support provided by eligibility for EI regular benefits. Furthermore, based on the outputs of the consultations held in 2016 with the provinces, territories and other stakeholders, the Government announced in Budget 2017 reforms to the LMDAs by introducing the new Workforce Development Agreements (WDAs), which complements the LMDAs and consolidates the Canada Job Fund Agreements, the Labour Market Agreements for Persons with Disabilities and the Targeted Initiative for Older Workers (TIOW). Under the WDAs, additional investment is provided for development and delivery of programmes and services that help Canadians get training, develop their skills and gain work experience. The WDAs offer flexibility to respond to the diverse employment and skills training needs of Canadians, including those with disabilities, those further removed from the labour market and employers. The Committee also notes that in its observations, the CPQ welcomes the Innovation and Competences Plan included in Budget 2017 with the objectives of creating a higher number of good and well-paid jobs and growing the middle class. In addition, in Budget 2018 measures are envisaged to increase the access to the Working Income Tax Benefit (WITB), which is a refundable tax credit that supplements the earnings of low-income workers. By letting low-income workers take home more money while they work, the benefit encourages more people to join and remain in the workforce. Finally, the Committee notes the concern raised by CLC about the lack of an active policy to promote full, productive and freely chosen employment, and articulated and integrated into socio-economic decision-making, as required by *Article 1* of the Convention. The CLC indicates that the aims set out in *Article 2* are difficult to coherently implement through measurable objectives that could lead to concrete reporting for the evaluation of programmes. With regards to the employment trends, according to the Labour Force Survey of Statistics Canada, seasonally adjusted employment increased from 17,991,100 in June 2016 to 18,628,000 in June 2018, and the unemployment rate decreased from 6.8 per cent to 6 per cent during the same period. Nevertheless, the CLC points out that job quality has declined and part-time employment continues to represent a significant and growing share of the job market. The CLC adds that young workers, women, indigenous people, newcomers to Canada and workers with disabilities are more likely to be working in low-wage jobs with unpredictable schedules, no benefits or sick days, and low job security. ***The Committee requests the Government to continue providing up-to-date information on the measures adopted or envisaged to achieve the objectives of the Convention and, in particular, on how these have helped the beneficiaries obtain full, productive and sustainable employment. In light of the concerns expressed by the CLC, the Committee reiterates its request that the Government indicate the manner in which active labour market measures are kept under review within the framework of an overall coordinated economic and social policy. It also requests the Government to provide up-to-date information, including statistical data disaggregated by sex, age and economic sector, on the current situation and trends regarding the active population, employment, unemployment and underemployment.***

Article 3. Participation of the social partners in the formulation and implementation of policies. In reply to the Committee's previous comments of 2014, the Government indicates that under the Forum of Labour Market Ministers (FLMM), broad-based consultations on Labour Market Transfer Agreements were held in 2016 with experts, employers, workers and service providers. The Committee notes that consultations with workers' and employers' and other stakeholders on different employment measures are envisaged in Budget 2018. The Committee notes, however, that the CLC highlights deficiencies with respect to the application of this Article of the Convention in relation to consultations with workers' organizations. It adds that despite the fact that workers' organizations are informed about employment policies, their views are not taken into account. The CLC regrets the lack of an institutionalized process for taking into account the views of the social partners with respect to the development and implementation of employment policies. ***In view of the concerns raised by the CLC, the Committee reiterates its request that the Government provide***

detailed information on the frequency, content and outcomes of effective consultations held with the social partners on the matters covered by the Convention.

Chile

Employment Policy Convention, 1964 (No. 122) (ratification: 1968)

Articles 1 and 2 of the Convention. Implementation of an active employment policy. In response to its previous comments, the Committee notes the information provided in the Government's report regarding the numerous programmes adopted to increase participation, mainly of women and young persons in a socially vulnerable situation, in the labour market. The Government refers, inter alia, to the "More skilled" (*Más Capaz*) programme, which aims to support the entry and retention in the labour market of women, young persons and persons with disabilities who belong, according to socio-economic classification, to the 60 per cent most disadvantaged section of the population, and who have no or little work, that is, whose contribution rate amounts to 50 per cent or less over the previous 12 months. There are three lines of action in the "More skilled" programme: standard line of action (2015–18); women entrepreneurs line of action; and persons with disabilities line of action. The Government also indicates that *ProEmplea* runs five programmes of the Office of the Under-Secretary for Labour aimed at job creation and labour integration for groups in a vulnerable situation, such as women, children, persons with disabilities and former prisoners. The joint objective of those programmes is the promotion of employment and employability through the design, coordination and oversight of employment policies and programmes, with a view to facilitating labour integration for persons in the most vulnerable situations, and to provide a source of labour to places where the labour force demand has shrunk because of an emergency. These programmes are divided into "emergency employment" programmes, which include the programme for community investment and the programmes under the National Training and Employment Service (SENCE); and the "employability-boosting" programmes, which include the programme for the employment support "*sistema Chile solidario*" and the programme for the development of professional skills for women "*Chile solidario*". The Government also provides information on incentives granted to enterprises (the "Encourage people" programme and the "On-the-job training" programme) and benefits for workers (youth employment grants and vouchers for women workers) with a view to boosting employment and training for young persons and women. With regard to the labour market trends, the Committee notes that based on the National Employment Survey of the National Statistics Institute (INE), between July and September 2018, the general unemployment rate was 7.4 per cent for women and 6.8 per cent for men; the participation rate was 48.5 per cent for women and 70.2 per cent for men; and the employment rate was 44.9 per cent for women and 65.4 per cent for men. The Committee notes that the unemployment rates are higher in certain regions, such as Tarapaca (9.2 per cent for men and 7.5 per cent for women), Atacama (7.7 per cent for men and 9 per cent for women) and Antofagasta (6.9 per cent for men and 10.8 per cent for women). Lastly, the Committee notes the establishment of implementation reports relating to employment programmes with a view to conducting quantitative monitoring of the achievement of those programmes with fiscal support; and the establishment of the Employment Monitoring Committee to coordinate those programmes. ***The Committee requests the Government to continue providing up-to-date information on the measures adopted or envisaged to achieve the objectives of the Convention, including those adopted in regions with high unemployment rates and, particularly, on the manner in which those programmes helped beneficiaries (particularly women, young people and persons with disabilities) to obtain full, productive and lasting jobs. The Committee also requests the Government to provide a copy of the implementation reports related to those measures. Furthermore, the Committee requests the Government to provide updated statistical information on the evolution of the labour market, particularly on the rates of the economically active population, employment and unemployment, disaggregated by sex, age and region.***

Coordination of vocational and technical education and training measures with employment policy. In its previous comments, the Committee requested the Government to continue providing information on the coordination of vocational education and training policies with employment policy. In this respect the Government recalls in its report that the National System for the Certification of Vocational Skills (*ChileValora*) is composed of Sectoral Vocational Skills Bodies (OSCL), that are tripartite and invite the most representative sectors of the economy to participate in the development of skills-based projects. The Government indicates that, depending on the characteristics of the production sector and its formation, there are OSCL which include representatives from the rural sector and the informal economy (family agriculture, recyclers and domestic workers). Based on the work of the OSCL, the Vocational Skills Catalogue was compiled, containing all relevant vocational profiles, organized by economic sectors and sub-sectors, according to which persons are assessed and qualified. The Vocational Skills Catalogue is available to the training system and educational institutions in order to incorporate skills into the design of training plans, narrow the gap between workforce supply and demand, link skills with the various curriculum and education levels, and facilitate recognition of qualifications in formal education processes. The Government also indicates that, as a result of sectoral tripartite dialogue, since 2015 it has been making steady progress in the development of vocational paths combining work experience and training which respond to the reality and needs of different productive sectors. The Government also indicates that the mission of the National Employment Observatory, which is part of the National Training and Employment Service, is to identify existing gaps between supply and demand in labour market occupations and to anticipate possible future gaps. In particular, the Observatory's objective is to improve workers' employability and the country's productivity by disseminating information

on the importance of training and on the link between job vacancies and seekers. The National Observatory has a central office and a network of 15 regional observatories, which each have an advisory council composed of representatives of the Government, workers' and employers' organizations, and academia. The Government also refers to the skills training programme for persons in vulnerable situations and provides them with subsidies for each day of training; and to the on-the-job training programme which offers incentives to enterprises that hire unemployed persons or first-time jobseekers with a view to developing particular skills through the on-the-job training and a training voucher. ***The Committee requests the Government to provide detailed and updated information on the measures adopted or envisaged in cooperation with the social partners and representatives of various sectors, including representatives of the rural sector and informal economy, to improve the level of qualifications and coordinate education and training policies with potential job opportunities, and on the results of the implementation of those measures.***

Micro- and small enterprises (MYPE). The Committee notes the Government's reference to the implementation of the business and enterprise voucher which aims to boost the competitiveness and productivity of micro- and small enterprises. Through the programme, owners or managers of micro- or small enterprises are provided with a certificate giving them access to a training course to improve their training in areas that will boost competitiveness and productivity. ***The Committee requests the Government to continue providing detailed information on the initiatives adopted or envisaged to support micro- and small enterprises as well as on their application in practice.***

Article 3. Consultation with the social partners. The Committee notes with ***interest*** the formation on 8 May 2017 of the Higher Labour Council, a tripartite and consultative body. Its permanent functions are, inter alia, to: (i) develop, analyse and discuss proposals and recommendations on public policy relating to labour relations and the labour market; (ii) propose initiatives intended to incentivize job creation, boost productivity and increase the participation of women, young persons, persons with disabilities and other groups of workers in a vulnerable situation in the workforce, improving their employability; and (iii) conduct, directly or through third parties, diagnostic investigations or studies on the status of labour relations and the operation of the labour market in the country. The Committee also notes the Government's information on the content of several of the Council's meetings held to date. The Government indicates, for example, that in its second session, Council members analysed information available on the implementation of the labour reform, particularly the labour market indicators defined on the basis of data registered by the Labour Directorate. The Government also refers to the implementation of the programme on social dialogue working groups within the framework of the social dialogue unit of the Labour Ministry. The purpose of this programme is to establish social dialogue working groups to help set up national and regional social dialogue forums on high-priority issues, such as employment policy. ***The Committee requests the Government to provide updated information on the manner in which the social partners participate in the design, implementation, evaluation and revision of employment policies within the Higher Labour Council and the social dialogue working groups on employment policy.***

Costa Rica

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

The Committee notes the observations of the Rerum Novarum Workers' Confederation (CTRN), received on 31 August 2017. It also notes the observations of the International Organisation of Employers (IOE) and the Costa Rican Confederation of Democratic Workers (CCTD), received on 1 September and 23 September 2017, respectively. The Committee further notes the Government's replies to the observations of the CCTD, which are included in its report. ***The Committee requests the Government to send its comments on the observations of the CTRN and the IOE.***

Article 1 of the Convention. Formulation and implementation of an active employment policy. In its previous comments, the Committee asked the Government to provide information on the progress of the "National employment and production strategy (ENEDP)" in achieving the objectives of the Convention. The Committee notes the detailed information included in the summary of the "Annual technical report on the ENEDP support project", provided by the Government. According to the aforementioned report, improvements were made in 2016 with regard to: (i) building institutional and managerial capacity for effective implementation of the abovementioned strategy through measures such as expansion of the national directory of organizations in the social solidarity economy and the creation of spaces for coordination and follow-up with institutions involved in implementation of the ENEDP; (ii) strengthening social dialogue, including through the establishment of the preparatory framework for creating a national forum for tripartite dialogue on the transition from the informal economy; (iii) formulating and implementing specific policies to improve ENEDP vocational training and job placement programmes; (iv) the provision of technical advice for the Presidential Economic Council in relation to the formulation of national policy on productive transformation and the development of an agenda for research into the links between macroeconomic policy and employment; and (v) the conditions for the integration of socially vulnerable groups (women in general and female domestic workers in particular) with a view to safeguarding their labour rights. The Committee also notes that the CTRN, in its observations, maintains that the labour rights of workers are not guaranteed in practice, particularly as regards payment of the minimum wage, bonuses and overtime. The CTRN emphasizes that social inequality and informality have increased in the last few decades. The CTRN also refers to the drafting of a Tax Reform Bill, which provides for the deregulation and flexibilization of labour rights of public sector workers. ***The Committee requests the Government to provide information on the impact of the measures taken to***

achieve the objectives of the “National employment and production strategy (ENEDP)”. The Committee also requests the Government to provide information on the status of the process of adoption of the Tax Reform Bill and to send a copy when it is adopted.

Article 3. Participation of the social partners. In its previous comments, the Committee asked the Government to provide information on the consultations held with the social partners, particularly those working in the rural sector and the informal economy, with a view to enlisting the support needed to implement the employment policy. The Committee notes the Government’s indication that a tripartite round table was convened in 2017 regarding the adoption of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), in which the main workers’ and employers’ organizations and public institutions took part. The Government adds that the round table reached consensus on the need for action with regard to, inter alia, simplification of taxation and improved access to technical training and social protection. In this context, tripartite technical committees were also formed to draw up specific measures for achieving the stated objectives. However, the Committee notes that the Government has not provided information on the holding of consultations with the social partners, including those working in the rural sector and the informal economy, in relation to implementation of the employment policy. **The Committee once again requests the Government to provide detailed, up-to-date information on the consultations held with representatives of the social partners on the matters covered by the Convention, including with representatives of the rural sector and the informal economy.**

The Committee is raising other matters in a request addressed directly to the Government.

Cyprus

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

Articles 1 and 2 of the Convention. Implementation of an active employment policy. Labour trends. In its previous observation, the Committee noted an alarming deterioration of the employment situation in Cyprus and requested the Government to indicate the measures taken to address the situation. The Committee notes the employment measures implemented by the Government since 2014 to tackle unemployment, including subsidized employment schemes aiming to create new jobs, training and work experience schemes aiming to promote job retention and enhance employability. The Government indicates that employment policies and measures and labour market reforms are designed and regularly reviewed, taking into account the Government’s goals and the country’s National Reform Programme, the basic vehicle guiding implementation of the “Europe 2020” Strategy at the national level. The Government adds that the effectiveness of some of the measures taken was assessed in evaluation studies conducted by external experts. The Committee notes that the unemployment rate, after a substantial increase from 2011 to 2014, began to decline in 2015, when the effects of the global economic recession on the labour market began to diminish. According to available Labour Force Survey data, the unemployment rate decreased from 16.1 per cent in 2014 to 13 per cent in 2016. According to the latest ILOSTAT data, the unemployment rate declined further, reaching to 11.1 per cent in 2017. The employment rate increased during the same period, from 67.6 per cent in 2014, to 68.8 per cent in 2016. In addition, according to the European Commission Country Report Cyprus 2018, the employment rate increased further, reaching to 71 per cent in 2017. **The Committee requests the Government to continue to provide information on the manner in which it determines and keeps under review, within the framework of a coordinated economic and social policy, active labour market policies and measures to achieve the objectives of full, productive and freely chosen employment. It further requests the Government to include information on the measures taken or envisaged to address the national employment situation. It also requests the Government to provide updated information, including statistics disaggregated by sex and age, with respect to labour market trends, specifically employment, unemployment and visible unemployment.**

Specific categories of workers. The Committee notes the information provided by the Government concerning targeted employment measures for specific groups of persons vulnerable to decent work deficits. In this respect, the Government is implementing a series of schemes that provide incentives to encourage enterprises in the private sector to employ members of the targeted groups, including the long-term unemployed, young persons, older workers, those with chronic diseases and persons with disabilities. The Committee notes that 60 per cent of the persons that took part in the “Scheme providing incentives for hiring disadvantaged individuals” remained in employment six months after completing the Scheme. **The Committee requests the Government to continue to provide updated detailed information, including statistical data disaggregated by age and sex, on the nature and impact of active labour market measures implemented to enhance the employability and promote the employment of specific categories of disadvantaged workers, including but not limited to the long-term unemployed, young people, older persons, those with chronic diseases and persons with disabilities in terms of creating productive and lasting employment opportunities.**

Women’s employment. The Committee notes that the employment rate for women is markedly lower than for men. Moreover, unemployment rates continue to be slightly higher for women than for men. For example, in 2016, the employment rate stood at 64.1 per cent for women, compared to 73.9 per cent for men. According to ILOSTAT data, in 2017, the unemployment rate stood at 11.3 per cent for women, compared to 10.9 per cent for men. Regarding measures taken to increase the employment of women, the Committee notes the Government’s indication that the evaluation studies conducted by external experts found that 97 per cent of the women that took part in the Scheme for the Improvement of the Employability of Economically Inactive Women were still in the labour market six months after participating in the

Scheme. Noting the measures taken by the Government to promote the employment of specific categories of workers, the Committee recalls that, in its General Survey of 1998 on the Vocational Rehabilitation and Employment (Disabled Persons), it highlighted the employment barriers for women with disabilities. Recalling the 2003 ILO Global Report *Time for equality at work*, which notes that the “interplay of identities results in experiences of exclusion and disadvantage that are unique to those with multiple identities”, the Committee notes that women who also belong to disadvantaged groups face double discrimination. ***The Committee requests the Government to provide information on the nature and impact of measures adopted with a view to promoting the employment of women, including economically inactive women, particularly women who belong to disadvantaged groups, promoting their access to decent and lasting employment at all levels and across all economic sectors.***

Youth employment. The Committee notes that the youth unemployment rate decreased, falling from 36 per cent in 2014 to 29.1 per cent in 2016 and, according to ILOSTAT, decreased further to 24.7 per cent in 2017. At the same time, youth employment increased from 25.8 per cent in 2014 to 26.1 per cent in 2016. The Government refers to a series of schemes that provide incentives to encourage enterprises in the private sector to employ young persons. The Committee takes note of the training subsidy schemes offering job placements for unemployed young secondary and tertiary graduates to enable them to acquire work experience, with the aim of enhancing their employability and facilitating their smooth integration into the labour market. According to the evaluation studies referenced in the Government’s report, these job placement schemes significantly improved the employability of young persons, since the vast majority of the participants were employed after completing their participation and continued to work in the same enterprise or organization that employed them during their participation in the scheme. ***The Committee requests the Government to continue providing information on the measures adopted to facilitate the labour market integration of young persons and the impact of these programmes. The Committee also requests the Government to continue to provide statistical information on trends in youth employment, disaggregated by gender and age.***

Education and training policies and programmes. The Committee notes the training measures being implemented since 2014, including accelerated training programmes, subsidy schemes for vocational training combined with employment, as well as training schemes for the long-term unemployed, young people and persons with disabilities. It also notes that subsidy schemes offering job placement and job training were planned for the provision of care services for guaranteed minimum income recipients and for the provision of care services for persons with paraplegia and quadriplegia. ***The Committee requests the Government to provide updated information on the nature and impact of the measures taken to provide and promote education and training, including job placement schemes for graduates, and on the relation of these measures to prospective employment opportunities.***

Article 3. Participation of the social partners. The Government indicates that consultations with the social partners and other stakeholders on the formulation and implementation of employment policy measures take place in tripartite social dialogue bodies functioning under the auspices of the Ministry of Labour and Social Insurance. The Labour Advisory Board is the principal tripartite body; however, the Committee notes that issues pertaining to employment policy are discussed by the tripartite social dialogue bodies and specialized issues are also discussed in ad hoc Tripartite Technical Committees. ***The Committee requests the Government to provide more detailed information on the manner in which the experience and views of the social partners have been taken into account in the formulation and implementation of employment policy measures. The Government is also requested to indicate to what extent consultations have been held with representatives of the persons affected by the measures taken, such as young people, older persons and persons with disabilities, in relation to the formulation and implementation of active employment policies and programmes as contemplated under the Convention.***

Djibouti

Employment Policy Convention, 1964 (No. 122) (ratification: 1978)

The Committee notes with ***regret*** that the Government’s report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Article 1 of the Convention. Adoption and implementation of an active employment policy. ILO technical assistance. In response to previous comments, the Government indicates in its report that, although the strategy for the formulation of a national employment policy was commenced in April 2003, and new structures have been established, the preparation of a national employment policy paper has still not been completed. The Committee notes that the National Employment Forum held in 2010 showed the need to develop a new employment policy adapted to labour market needs, which will have to target as a priority the reform of the vocational training system and the improvement of employment support services. The Government indicates that, out of a population of 818,159 inhabitants of working age, recent estimates place the unemployment rate at 48.4 per cent. It also indicates that, following a mission for the evaluation of technical cooperation undertaken by the ILO in March 2011, the Government reiterated its commitment to developing a Djibouti Decent Work Programme. It adds that it is still awaiting Office support for this purpose. ***The Committee requests the Government to provide information on the measures taken to ensure that employment, as a key element of poverty reduction, is central to macroeconomic and social policies, and on the progress made in the adoption of a national policy for the achievement of full employment within the meaning of the Convention.***

Youth employment. The Government indicates that in 2012, despite a certain improvement, unemployment particularly affected young persons with higher education degrees. Moreover, although the country does not currently have a formal strategy to promote youth employment, several initiatives have been established to improve the operation of the labour market, promote entrepreneurship and provide training adapted to labour market needs. ***The Committee invites the Government to provide***

information on the manner in which the measures adopted have resulted in productive and lasting employment opportunities for young persons, and on the collaboration of the social partners in their implementation.

Article 2. Collection and use of employment data. In March 2014, the Government provided the summary of the employment situation prepared by the National Employment and Skills Observatory. The number of jobs is increasing (30,118 jobs created in 2007, 35,393 in 2008 and 37,837 in 2010). *The Committee invites the Government to indicate the measures taken to improve the labour market information system and to consolidate the mechanisms linking this system with decision-making in the field of employment policy. It also requests the Government to provide updated statistical data disaggregated by age and sex, as well as any other relevant data relating to the size and distribution of the workforce, the nature and scope of unemployment and underemployment and the respective trends.*

Article 3. Collaboration of the social partners. *The Committee recalls the importance of the consultations required by the Convention and once again requests the Government to provide information on the measures adopted or envisaged for the consultation of the representatives of the persons affected on employment policies.*

France

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

The Committee notes the observations of the General Confederation of Labour–Force Ouvrière (CGT–FO), received on 20 October 2017. *The Committee requests the Government to provide its comments in this regard.*

Article 1(2) of the Convention. Implementation of an active employment policy. In response to the Committee's previous comments, the Government indicates in its report that several measures to reduce the cost of labour have been approved and implemented in order to promote employment. In this context, it indicates that, since 2015, the Tax Credit for Competitiveness and Employment (CICE) has been supplemented by exemptions from social security contributions introduced in the framework of the Responsibility and Solidarity Pact. The first phase of the Pact, implemented in 2015, reduced employer social security contributions for wages lower than 1.6 times the minimum interoccupational growth wage (SMIC) and the social security contributions of the self-employed. The Government adds that, since 2016, small and medium-sized enterprises (SMEs) have benefited from support for the recruitment of low-skilled workers through the "SME recruitment" mechanism, which provides a quarterly bonus of €500 when a worker is recruited with a fixed-term contract (CDD) of more than six months or a permanent contract (CDI), earning up to 1.3 times the SMIC. It indicates that this mechanism, which came to an end in 2017, aimed to boost recruitment. The Government indicates that, since 2015, job creation in the commercial sector has been growing, with 290,000 jobs created since the first quarter of 2015. It adds that the recruitment bonus for fixed-term contracts of more than six months and permanent contracts benefited over 2 million workers, with the creation of 30,000 jobs in 2016 and 45,000 jobs in 2017. The Committee notes that combating unemployment and precarious employment has been one of the Government's ongoing priorities and it has strengthened the capacities of enterprises to adapt to their circumstances, facilitated recruitment with permanent contracts through quality training that matches workers' skills with the needs of enterprises and improved the unemployment insurance system. The Government also indicates that a policy of increasing the minimum wage has supplemented these measures in order to avoid penalizing the employment of low-skilled workers. It indicates that the unemployment rate fell by 0.3 points in 2015 and 0.2 points in 2016. In the final quarter of 2016, unemployment affected 10 per cent of the workforce, not including the island of Mayotte. However, the Government reports negative economic consequences of a split between persons with stable employment and those in precarious employment or who are unemployed. The Committee notes the observations of the CGT–FO indicating a deterioration in the overall employment situation. The CGT–FO adds that, between 2014 and 2017, unemployment grew by 1.6 per cent, increasing from 6,284,920 persons in December 2014 to 6,653,790 persons in December 2016. The CGT–FO asserts that, in 2015, including unemployment and hidden unemployment, 11.5 per cent of persons between 16 and 64 years of age were without employment and seeking employment throughout the country. It highlights a serious deterioration in the employment situation characterized by long-term unemployment, which has been increasing since 2008. Indeed, 42.6 per cent of unemployed persons report that they have been out of work for a year or more. The CGT–FO also reports a sharp increase in the number of jobseekers in part-time work: more than 2,105,000 persons in August 2017, while 89.3 per cent of persons who are involuntarily unemployed are seeking full-time employment. It also indicates an explosion in the number of very short contracts from 1.6 million to more than 4 million since the year 2000. *The Committee requests the Government to continue providing information on the current active labour market policy and its impact. It requests the Government to continue to evaluate the measures implemented, indicating their impact with regard to the creation of productive employment and combating unemployment and underemployment, and to indicate whether any other mechanism is envisaged to replace the "SME recruitment bonus". The Committee requests the Government to provide statistics disaggregated by age and sex on employment trends.*

Article 3. Participation of the social partners. The Government indicates that the Act of 5 March 2014 reforming vocational training updated the regional and national rules governing the vocational training system by allowing the State, the social partners and regional governments to establish new dialogue procedures. In that regard, at the national level, the National Council for Employment, Vocational Training and Guidance (CNEFOP) has replaced the National Employment Council and the National Council for Lifelong Vocational Training. The Government adds that this Council brings together the State, represented by 12 ministries including those responsible for employment and vocational training, national education, the regions, and the representative social partners at the national and interoccupational, multi-

occupational or other concerned levels, as well as the consular chambers and the leading operators. It indicates that the Council is a consultation body for all the legislative and regulatory texts in this area. It is also a body for dialogue, monitoring, coordination and evaluation of policies on employment and lifelong initial and continued vocational training and guidance. At the regional level, the Government indicates that the Regional Council for Employment, Vocational Training and Guidance (CREFOP) ensures coordination between stakeholders regarding vocational training and guidance and employment policies and the consistency of training programmes. It indicates that the Council brings together representatives of the State, the regions, the social partners and the public employment service. The Government adds that the Council promotes the formulation and implementation of a concerted regional strategy on vocational guidance, the development of alternance training and vocational training of employees and jobseekers, and that it conducts an evaluation of the actions taken. ***The Committee requests the Government to continue providing further examples of the participation of the social partners in the formulation of an active policy designed to promote full, productive and freely chosen employment. It also requests the Government to indicate the manner in which the consultations with the social partners held in the CNEFOP and the CREFOP have contributed to the formulation of employment policies and the manner in which their experience and views are fully taken into account when formulating such policies.***

The Committee is raising other matters in a request addressed directly to the Government.

Greece

Employment Policy Convention, 1964 (No. 122) (ratification: 1984)

The Committee notes the observations of the Greek General Confederation of Labour (GSEE), received on 1 September 2017. ***The Committee requests the Government to provide its comments in this respect.***

Articles 1 and 2 of the Convention. Active employment policy and labour market measures implemented under the adjustment programme. Employment trends. In its previous comments, the Committee noted the persistent high levels of unemployment in Greece and requested the Government to report on the measures taken to address the situation. The Committee notes that the GSEE has been reiterating concerns since 2010 that the Government's imposition of austerity measures as part of the implementation of the adjustment programmes has led to an extensive and arbitrary deregulation of the Greek labour market which has resulted in the violation of the provisions of the Convention. The GSEE stresses that no progress has been made with regard to the application of the Convention, as the legislative provisions which it considers to be incompatible with the Convention have not been modified or repealed. It further notes the high levels of unemployment as well as the deterioration of the living conditions of Greek people due to the economic recession. The GSEE maintains that the dramatic increase in unemployment in the country is related to three developments: (i) the dismantling of legislation on temporary employment which had the effect of deterring hirings; (ii) bankruptcies and lay-offs; and (iii) new legislation that facilitated dismissals. The Committee notes that, according to the Government, the general unemployment rate decreased from 26.5 per cent in 2014 to 24.9 per cent in 2015. According to the ILOSTAT database, the overall unemployment rate was 21.5 per cent in 2017. The Committee notes that, despite the continued decrease, the unemployment rate remains high. The Committee further notes that the employment rate increased during the same period, from 49.6 per cent in 2014 to 51.3 per cent in 2015. The GSEE observes that Greece continues to have the lowest employment rate among the EU countries, noting that, in 2016, the employment rate stood at 56.2 per cent, compared with an EU average of 71.1 per cent. The GSEE maintains that the Government has not presented any specific examples of job creation and active employment policies, or of efforts made to encourage the unemployed to return to work. On the other hand, the Government reports a number of legislative developments and labour market reforms, in the framework of the third economic adjustment programme for Greece, which began on 19 August 2015 and ended on 20 August 2018. In this respect, the Government refers to the recommendations formulated in the updated Memorandum of Understanding on Specific Economic Policy Conditionality (May 2013), according to which, during the 2014–20 period, accelerated efforts are required to prevent unemployment from becoming permanent, focusing on the integration of the long-term unemployed, disadvantaged persons and persons in greater need of income support, on easing labour market mismatches and facilitating the mobility of workers across occupations and sectors and strengthening the social economy. The Committee notes that the active employment policies reported by the Government are primarily employment enhancement programmes implemented by the Greek Manpower Employment Organization (OAED). The Committee also notes that the programmes for the creation of new jobs and for acquisition of work experience constitute an important priority of the Ministry of Labour with regard to employment activation policy programmes, especially through community work programmes which focus on the long-term unemployed, subsidization of enterprises to encourage them to hire unemployed persons, education and training programmes in cutting edge sectors of the Greek economy and also subsidization of new freelance professionals. According to EUROSTAT, the part-time employment rate in Greece has shown an upward trend since 2012, reaching 9.4 per cent in 2015. This percentage is considerably higher among young persons compared to the population in general (23.1 per cent in 2015). The Committee notes that, in 2015, the risk of poverty for workers with full-time jobs was 11.6 per cent, while for workers with part-time jobs the risk rose to 28.2 per cent. It also notes that the rate of long-term unemployment remains high, reaching 73.2 per cent in 2015. With respect to measures taken for the compilation of statistics and other data concerning the size and distribution of the labour force, the Committee notes with *interest* the establishment in 2016 of a Mechanism to Identify Labour Market Needs. ***Taking into account the persistent high levels of unemployment in Greece, the Committee requests the Government to provide more***

detailed information on how, pursuant to Article 2 of the Convention, it keeps under review the employment policies and measures adopted or undertaken to pursue the objectives of full, productive and freely chosen employment, in consultation with the social partners. It further requests the Government to include information on the measures taken or envisaged to address the national employment situation and to provide information, including statistical information disaggregated by sex and age, on the impact of employment initiatives adopted within the implementation of an active employment policy, including on the impact of the measures taken to promote the integration of the long-term unemployed in the labour market. The Committee requests the Government to continue to provide statistical data disaggregated by sex and age concerning the size and distribution of the labour force, including the size of the informal economy and employment trends in relation to employment, unemployment, and visible underemployment.

Workers vulnerable to decent work deficits. The Committee notes the information provided by the Government concerning targeted employment measures for specific groups of persons vulnerable to decent work deficits. In this respect, the Government is implementing subsidy programmes to provide financial assistance to employers in order to encourage recruitment and job retention of unemployed people with disabilities, ex-addicts, ex-convicts, disadvantaged persons, and very disadvantaged persons. The Committee notes that disadvantaged persons are defined by the Government as those who during the last six months were not employed for more than one month in a full-time regularly paid job, graduates of compulsory education schools who have not completed secondary education, or have not attended any vocational training programmes, people over 50 years old, and leaders of single-parent families, while very disadvantaged persons are defined as those who are holders of a valid unemployment card for a period of at least 24 months, young delinquents or young people at social risk. *The Committee requests the Government to provide updated information on the nature and impact of measures taken to promote full, productive, freely-chosen and sustainable employment for persons vulnerable to decent work deficits.*

Youth employment. The Committee notes that youth unemployment rates have steadily decreased, but still remain alarmingly high. According to data from the Hellenic Statistical Authority (ELSTAT), the unemployment rate among young persons aged 15 to 24 decreased from 51.9 per cent in 2015 to 50.9 per cent in 2016. According to the ILOSTAT database, the youth unemployment rate was 43.6 per cent in 2017. The Government indicates that facilitating access to employment for young persons up to 29 years old is one of its priorities. The Committee notes the information provided by the Government in relation to a series of employment activation programmes, implemented in the framework of the Youth Guarantee scheme, which aim to increase the employability of young people, to enable them to be more competitive and facilitate their reintegration into the labour market. In this respect, the Committee notes, inter alia, the entry vouchers and apprenticeship programmes provided to young persons aged 15 to 24. It also notes the subsidy programmes for the acquisition of work experience and employment integration of young people and the training and accreditation programmes, implemented under the Youth Employment Initiative, established within the framework of the Youth Guarantee. The Government indicates that the “brain drain” phenomenon has become a matter of increasing concern given that, according to data from the Bank of Greece, from 2008 to 2013, almost 223,000 young persons aged 25 to 39 permanently left the country in search of better paid employment and better social and financial prospects in foreign labour markets. The Committee notes that, while the Government’s report provides detailed information concerning problems identified and intended actions, it does not contain information regarding the outcomes of specific programmes. *Noting the persistent high levels of youth unemployment, the Committee requests the Government to provide detailed information on the results of the measures adopted to address youth unemployment as well as the challenges encountered. The Committee also requests the Government to continue to provide statistical information on trends in youth employment, disaggregated by gender and age. The Committee requests the Government to provide information on measures taken or envisaged with a view to reversing the “brain drain” phenomenon.*

Older workers. The Committee notes that older workers are disadvantaged compared to other categories of workers, as the participation rate in the labour market for persons belonging to the age group 55 to 64 is considerably lower than the rate for persons aged 15 to 64. The Government indicates that the unemployment rate for older workers stood at 34.3 per cent in 2015. Women aged 55 to 64 had even higher unemployment rates (29.6 per cent in 2015). The Government refers to a number of measures to promote the employment of older persons, including the provision of financial support to employers in order to encourage them to employ older workers. *The Committee requests the Government to provide information on other measures adopted to increase the employability of older workers and promote their integration and retention in the labour market, as well on their impact.*

Women’s employment. The Committee notes that the unemployment rate for women continues to be higher than that for men. According to the ILOSTAT database, in 2017, the unemployment rate for women stood at 26.1 per cent, compared to 17.8 per cent for men, while the unemployment rate for young women was 48.2 per cent, compared to 39.3 per cent for young men. The Committee further notes that part-time employment is more widespread among women (13.1 per cent in 2015 compared to 6.7 per cent among men). The Government emphasizes that strengthening female employment constitutes a priority axis of its new National Action Plan for Gender Equality 2016–20. The Committee notes the information provided by the Government regarding the project “Supporting Female Employment by Fostering Entrepreneurship” which seeks to offer multiple employment opportunities to women and assistance to enable them to set up their own businesses. The Committee also notes the subsidy programme to support new freelance professionals, especially women. Recalling the 2003 ILO Global Report *Time for equality at work*, which points out that the “interplay

of identities results in experiences of exclusion and disadvantage that are unique to those with multiple identities”, the Committee observes that women who also belong to disadvantaged groups face double discrimination. ***Noting the higher rates of unemployment for women, the Committee requests the Government to provide information on the nature and impact of measures adopted with a view to promoting the employment of women, particularly women who belong to disadvantaged groups or older female workers, as noted above, to enable them to access decent and lasting employment at all levels and across all economic sectors.***

Education and training policies and programmes. The Government indicates that upgrading and expanding vocational education and training is among its key priorities. The Committee notes the conclusion of the “National Strategic Framework for the upgrade of vocational education and training and apprenticeships”. The Government refers to a series of actions implemented by the OAED in the context of vocational training, including the operation of 51 occupational schools of secondary education offering apprenticeships, the provision of vouchers to improve the labour market relevance of tertiary education for the unemployed, training vouchers, labour market entry vouchers and reintegration vouchers for unemployed people, especially for young people. The Committee also notes that the employment programmes implemented in the context of the Operational Programme “Human Resources Development, Education and Life-Long Learning 2014-2020”, focus on the design and implementation of programmes to upgrade human resources knowledge and skills especially for persons with low qualifications seeking to enter or reintegrate into the labour market. The Government indicates that the Mechanism to Identify Labour Market Needs aims to improve the links between education and training and labour market needs. It provides input to the bodies responsible for designing and implementing employment and training programmes to eliminate skills mismatches. ***The Committee requests the Government to provide updated information on the number of persons participating in educational and training programmes and the impact of these programmes on productive and lasting employment opportunities for young people. It also requests the Government to provide information on the impact of the Mechanism to Identify Labour Market Needs on the design of policies on vocational education and training and human resources development.***

Promotion of small and medium-sized enterprises (SMEs). Entrepreneurships. The Committee notes the information provided by the Government on the measures to promote SMEs, in the context of the Operational Programme “Competitiveness and Entrepreneurship of the National Strategic Reference Framework 2007-2013”. The Government refers to the establishment of the social entrepreneurship and social economy, the creation of the policy-coordinating body for the development of social economy, as well as the establishment of the social Entrepreneurship Fund and the Central Support Mechanism for the Development and Promotion of Social Enterprises. The Government indicates that the necessary framework shall be finalized for the promotion of social economy, during the programming period 2014–20 and in accordance with the “Strategic Plan for the Development of Social Entrepreneurship”. ***The Committee requests the Government to provide information on the measures taken to improve the business environment with a view to supporting the development of SMEs and creating employment opportunities for the unemployed. It also requests the Government to provide information on the finalized framework for the promotion of the social economy. Referring to the Promotion of Cooperatives Recommendation, 2002 (No. 193), it requests the Government to provide information on the measures taken to promote productive employment through cooperatives.***

Modernization of labour market institutions. The Government indicates that, during the 2007–13 period, the OAED began to redefine its operational model, aiming at the overall reform of the Public Employment Service. The Committee notes, among other achievements of the reform, the operation of the first fast-track Employment Promotion Centres and the creation of the first consortiums with social agents, manpower companies and large companies for the training of jobseekers. The Government indicates that, during the 2014–20 period, actions concerning the OAED reorganization were to be financed, on the basis of the agreed Action Plan with the European Union. It adds that it will provide more detailed information concerning the effectiveness of the reorganization of the labour market institutions in its next report. ***Referring to its 2016 direct request on the Employment Service Convention, 1948 (No. 88), the Committee requests the Government to provide further information on the effectiveness of the reorganization of its labour market institutions.***

Article 3. Participation of the social partners. The Government indicates that the Mechanism to Identify Labour Market Needs operates in continuous consultation with representatives of productive bodies and public organizations. In this respect, the Committee notes that, five of the signatories to the National General Labour Collective Agreement participate in the Coordination Committee and the Operational Network of Bodies for the Mechanism to Identify Labour Market Needs. It also notes that the social partners, in the context of the Mechanism, carried out an employer and employee survey throughout the country in order to assess vacant posts and the adequacy of the skills of the labour force, with a view to identifying mismatches between occupations and skills. The GSEE maintains that tripartite dialogue processes remain superficial and have not been restored in practice adding that successive legislative interventions were undertaken with no regard for social dialogue. It also notes that, in November 2015, all the national social partners agreed on a joint policy paper on “Strengthening the effectiveness of tripartite social dialogue”, which was sent along with the joint policy papers on “Social dialogue and vocational education and training issues” and “Social dialogue and discrimination at the workplace” to the Ministry of Labour, but were never taken into consideration. The GSEE also expresses its concern regarding its exclusion from the National Vocational Education and Training Committee, which was established in 2017. The GSEE highlights the processes relating to technical assistance programmes under the auspices of

ILO, especially the undeclared work programme, where the presence of the ILO officials and the consistent monitoring of the procedure ensured the participation of social partners in tripartite social dialogue procedures. *The Committee reiterates its request that the Government provide specific information on the manner in which representative organizations of workers and employers and other stakeholders are consulted concerning the formulation and implementation of active employment policies, and the manner in which their support is ensured in the development and implementation of such policies.*

Libya

Employment Policy Convention, 1964 (No. 122) (ratification: 1971)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee recalls the discussion that took place in the Conference Committee on the Application of Standards (CAS) at its 107th Session in May–June 2018 concerning the application of the Convention. Acknowledging the complexity of the situation prevailing on the ground and the presence of armed conflict, the CAS highlighted the impact and consequences of conflicts on poverty and development, decent work and sustainable enterprises, and recognized the importance of employment and decent work for promoting peace, enabling recovery and building resilience. Taking into account the Government's submission and the discussion, the Committee requested the Government to provide information regarding updated statistics on the labour market, disaggregated by sex and age; information on the labour market strategy and the way in which employment objectives are to be achieved; information on progress made in the compilation and analysis of labour market data; and information on measures to promote the establishment and development of small and medium-sized enterprises (SMEs) as well as measures introduced to increase the participation in the labour market of persons in vulnerable situations. The CAS urged the Government to submit a detailed report to the Committee of Experts at its November 2018 session. It also urged the Government to avail itself of ILO technical assistance to adopt and implement without delay an active policy designed to promote full, productive and freely chosen employment, in consultation with the social partners. The CAS called on the ILO, the international community and employers' and workers' organizations to collaborate with the goal of reinforcing the labour administration system in Libya so that full, productive and freely chosen employment could become a reality in the country as soon as possible.

Articles 1, 2 and 3 of the Convention. Implementation of an active employment policy. Consultations with the social partners. The Committee welcomes the information provided in the Government's report. In respect of the national labour market strategy and the means for achieving the objectives of the Convention, the Government indicates that the Libyan National Strategy for Human Development and Empowerment for 2013–2014 (the Strategy) focused on: transformational training for graduates whose qualifications do not meet labour market requirements; promotion of self-sufficiency through the creation of SMEs; and the establishment of a comprehensive human resources and employment database to identify human resource requirements. The Strategy also specifies six key strategic objectives in relation to training and the workforce, which are to: increase the rate of full and decent employment for all those able to work; address the problems of seasonal and underemployment and consider enforcing the social security law to avoid criminal behaviour that could result from an interruption of income; emphasize vocational guidance and counselling for new entrants to the labour market and expand the participation of the private sector in vocational and technical training; increase the number of seminars and studies on human resources and enabling participation in these at home and abroad, as well as reviewing recruitment policies, activities and procedures and develop legislation in response to globalization; promote women's empowerment and capacity building; change stereotypes with respect to women's work; restructure the labour market to respond to requirements in the area of globalization and information technology; and develop methods and mechanisms of training and vocational and technical rehabilitation which respond to the introduction of advanced methods in the field of training, including continued distance training, transformational training and other training modalities. *The Committee requests the Government to provide information on progress made in the implementation of the Libyan National Strategy for Human Development and Empowerment for 2013–14 and on its impact in terms of promoting full, productive, freely chosen and sustainable employment opportunities, as contemplated in Article 1 of the Convention.*

Article 2. Employment trends. Labour market information. The Government reports that the Documentation and Information Centre of the Ministry of Labour and Rehabilitation launched a system for gathering data on the labour force in the public and private sectors, as well as data on jobseekers. According to the report, the total number of people in employment in both the public and private sectors is 1,827,692, out of which 738,608 are women, and 1,089,084 are men. The data also indicates that 170,643 of the employed population are in the 18 to 25 age bracket and 1,657,049 are over 25. It further notes that, according to the adjusted data, in 2017, the number of jobseekers reached a total of 205,000 persons. The Committee notes, however, that the Government provides no information on the year for which this information is applicable. The Government indicates that the Ministry's centres and affiliated institutes (such as the Libyan-Korean Institute affiliated to the Ministry of Labour) provide training to registered jobseekers and graduates in several fields. It adds that as a result, several trainees have found employment either in the National Oil Corporation, and others in the private sector. The Government further reports that the Libyan multi-purpose survey project for the period 2017–18 has

been implemented and that its results will be used to inform the development of an employment policy, in collaboration with the social partners. It adds that in mid-August 2018, a technical delegation from the International Labour Organization (ILO) visited Libya to discuss with the Minister of Labour the establishment of an ILO representation office in Tripoli, which would support comprehensive cooperation between the Ministry of Labour and the ILO to achieve common goals, especially on the topics of: restructuring; the digital Government; archiving and the development of the public sector; illegal migration; and rehabilitation and training programmes. ***The Committee requests the Government to provide detailed updated information on the impact of measures taken to improve the labour market information system. It also requests the Government to indicate the manner in which the labour market information obtained is used, in collaboration with the social partners, for the formulation, implementation, evaluation and modification of active labour market measures. The Committee further requests the Government to provide updated statistics, disaggregated by sex and age, concerning the size and distribution of the labour force, the type and extent of employment, unemployment and underemployment.***

Promotion of SMEs. The Government indicates that the National Programme for Small and Medium-sized Enterprises was established to promote a culture of innovation and create a supportive environment for SMEs. In October 2017, the National Reconciliation Government launched a pilot programme to finance SMEs, with the aim of providing job opportunities to youth and reducing unemployment. The programme was intended to provide financial loans to entrepreneurs through commercial banks backed with guarantees from the Lending Guarantee Fund. In addition, business incubators were to be set up throughout the country to provide assistance for projects and to train those responsible for the projects and assist them in preparing their workplans. Commercial banks would undertake to finance up to 60 per cent of the project's cost, provided that supporting project funds contributed 30 per cent of the total value of the project and the beneficiary of the project paid 10 per cent of the remaining cost. The Committee notes that ten business incubators were launched at Libyan universities to provide and support graduate students in cooperation with the Libyan Oil Corporation, to open centres in fields such as Jallow and Uppari to train young people and help them finance their own projects. It further notes that, in cooperation with international organizations such as Expertise France, several boot camps were held in Tunis to train young entrepreneurs and assist them in setting up projects. ***The Committee requests the Government to continue to provide detailed updated information on the impact of the measures taken to generate employment through the promotion of SMEs and entrepreneurship opportunities.***

Employment of women. The Government indicates that the Presidential Council of the National Reconciliation Government has attached particular importance to the rights of women and persons with special needs to work without neglecting the rights to education, health, development and other rights that respect the religious and cultural identity of the Libyan people. In this regard, the Council issued Resolution No. 210 of 2016 establishing a support and empowerment unit for women employed in state institutions. The Committee also notes that Law No. 2 of 2018 issued by the Presidential Council provides for the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, ratified on 16 May 1989. ***The Committee requests the Government to provide detailed information, including updated statistical data, disaggregated by age, sex and economic sector or occupation, on the impact of labour market measures taken to increase the labour force participation rate of women, including in managerial and decision-making positions across all economic sectors.***

Persons with disabilities. The Government reports that a special programme has been created for people with disabilities, including young persons with disabilities due to the conflict. The Committee notes that, in 2009, the number of people with disabilities in Libya was 70,721, out of which 3,879 hold postgraduate or university degrees, while 14,525 are illiterate and 13,159 are unable to learn. In this regard, the Government indicates that the General Authority of Families of Martyrs, Amputees and Missing Persons (the "Authority"), in collaboration with the National Programme for Small and Medium Enterprises, established a special programme for entrepreneurs, known as "Ademeni" (Support Me). The programme aims to improve the working capacity of people with disabilities and to prepare them for employment. The programme focuses, among other things, on education and training, including in information technology, needs assessments, capacity building, support and training of non-governmental organizations and employment services, raising companies' awareness of the benefits of employing persons with disabilities, and promoting entrepreneurship for persons with disabilities who wish to start private businesses. The Committee notes that the Presidential Council has issued Publication No. 2 of 2018 to implement the provisions of the International Convention on the Rights of Persons with Disabilities, ratified by Libya on 13 February 2018. The role of the Presidential Council, in this regard, is to promote the access of persons with disabilities to employment opportunities guaranteed to them by the legislation. In this context, the Government indicates that ministries, public institutions, bodies and companies are required to comply with the legislation in force. The Committee notes that Law No. 3 of 1981 and Law No. 5 of 1987 (on persons with disabilities) stipulate that persons with disabilities should be provided with "a suitable job" and that administrative units, companies and public facilities are required to hire a certain proportion of persons with disabilities. On 3 May 2012, the Minister of Labour and Capacity Building introduced a 5 per cent quota for persons with disabilities in state administrative jobs. ***The Committee requests the Government to provide updated detailed information on the impact of active employment measures taken to promote the employment of persons with both mental and physical disabilities. It further requests the Government to provide updated statistics disaggregated by age and sex, indicating the number of persons with disabilities employed in the public and private sectors.***

Migrant workers. The Government reports that migrants in an irregular situation were reluctant to regularize their situation through registration, due to their fear of being repatriated and their desire to migrate to Europe through the country as one of the transit States south of the Mediterranean. The Committee notes that, in cooperation with neighbouring countries, countries of origin and relevant international organizations, the Government has made significant and positive progress in reducing irregular migration, urging migrants to obtain legal status in the country to enjoy rights guaranteed by law for voluntary employment or voluntary repatriation. ***The Committee requests the Government to provide updated detailed information on measures taken or envisaged to implement the recommendations of the Committee on the Application of Standards in relation to migrant workers.***

Nigeria

Employment Service Convention, 1948 (No. 88) (ratification: 1961)

Articles 1 and 3 of the Convention. Contribution of the employment service to employment promotion. The Committee notes with **interest** the adoption of the revised National Employment Policy (NEP) on 19 July 2017, which provides for a range of improvements to the employment service system. In particular, the Committee welcomes section 4.7.6 of the NEP, in which the Government undertakes to improve the collection, processing and analysis of employment statistics and other labour market information for purposes, inter alia, of improved employment and social development planning, and with the objective of establishing and maintaining functional and timely information regarding job vacancies, sectoral changes, geographical imbalances and other labour and income trends. The Committee further notes that, pursuant to section 4.7.7 of the NEP, the Government, through the Federal Ministry of Labour and Employment (FMLE), is to establish a minimum of two community employment centres (CECs) in all 744 local government areas in the country. The CECs are to provide a full range of employment services to jobseekers in rural and urban communities in the country, including training, referrals, career counselling and information on job vacancies. ***The Committee requests the Government to provide detailed information on the measures taken or envisaged to implement the provisions of the NEP and its accompanying employment matrix, relating to the structure and functioning of the employment service. The Committee also requests the Government to provide updated information, including statistical information disaggregated by age and sex, on the number and location of public employment offices, including the CECs established in the different areas of the country, the number of new staff recruited, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices. The Government is requested to indicate the manner in which the employment service, in collaboration with other public and private bodies concerned, ensures the best possible organization of the labour market with a view to the achievement and maintenance of full, productive and freely chosen employment.***

Articles 4 and 5. Consultations with the social partners. The Committee notes the Government's indication that the social partners, along with other stakeholders, participated in the review and validation of the revised NEP and its accompanying implementation matrix prior to its adoption by the Federal Executive Council in July 2017. ***The Committee requests the Government to indicate the measures taken or envisaged to give effect to the provisions of Article 4, which requires arrangements to be made through one or more national advisory committees – and where necessary regional and local committees – for the cooperation of the social partners in the organization and operation of the employment service and the development of related policy. In this context, and referring once again to its previous comments, the Committee reiterates its request that the Government provide information on consultations held in the National Labour Advisory Board on the organization and operation of the employment exchanges and professional and executive registries, as well as on the development and implementation of employment service policies and programmes.***

Article 6. Organization of the employment service. The Government reports that some of the employment exchanges and the professional and executive registries in Nigeria have been upgraded to model job centres. It adds that the services provided by the exchanges have been upgraded and their facilities computerized, enabling them to replace manual registration of jobseekers with an electronic platform linked to the National Electronic Labour Exchange (NELEX), enabling jobseekers and employers to meet online and access employment services. ***The Committee requests the Government to provide updated detailed information, including statistical information on the impact of reorganization and restructuring of the employment services under the revised NEP. The Committee further requests the Government to provide up-to-date information on the operation of the job centres and their contribution towards meeting the needs of employers and workers, particularly in those regions of the country with high levels of unemployment. The Government is also requested to provide updated information in its next report on progress made regarding the establishment of CECs in all 744 local government areas of the country, as called for under the NEP, as well as on other measures taken or envisaged to respond to the needs of employers and workers in all geographical regions of the country.***

Article 7. Particular categories of jobseekers. The Committee welcomes the provisions in sections 4.7.3 and 4.7.4 in the revised NEP, in which the Government undertakes to develop and implement a range of measures to ensure the greater participation of women in the workforce and the full employability of persons with disabilities, respectively. In respect of the employment of women, the Committee notes that the federal and state Governments are to develop self-employment promotion programmes for women, especially in rural communities, and the Federal Ministry of Women's

Affairs and Social Development, together with related state ministries and local government councils, shall establish mentorship programmes and gender-specific career counselling in the 744 local government areas (NEP, section 4.7.3). In relation to the employment of persons with disabilities, section 4.7.4 of the NEP provides, inter alia, that the Government will facilitate the passage of a draft law on persons with disabilities and establish vocational rehabilitation centres to develop and enhance the skills and potential of persons with disabilities. ***The Committee requests the Government to provide comprehensive updated information on measures taken to promote women's employment, particularly in rural communities, including information on the mentorship and gender-specific career counselling services provided in the local government areas, specifying the involvement of the employment service in this respect. The Committee further requests the Government to provide detailed information on measures taken or envisaged to give full effect to the provisions of section 7.7.4 of the NEP, including providing a copy of the law on persons with disabilities once it is adopted. The Committee recalls that the Government may avail itself of technical assistance with regard to the achievement of these objectives.***

Article 8. Employment of young persons. The Committee notes the focus in section 4.7.1 of the NEP on job creation for young persons, particularly in the agricultural sector. In particular, the Government contemplates providing temporary employment for 500,000 graduates annually in the areas of education, agriculture, health and taxes. ***Referring once again to its previous comments, the Committee requests the Government to provide detailed information on the impact of the measures taken by the employment service to assist young persons in securing suitable employment, as well as information on the impact of measures taken by the National Directorate of Employment and the National Poverty Eradication Programme in this respect. The Government is also requested to provide information on the specific measures taken to implement the provisions of the NEP on youth entrepreneurship – including training and facilitating access to credit, insurance and other financial services – and skills acquisition for unemployed youth. It further requests the Government to provide information on the specific services and activities offered by the employment service in relation to the achievement of the objectives set out in section 4.7.1 of the NEP of generating employment opportunities and promoting skills acquisition for young persons.***

Article 10. Measures to encourage the full use of employment service facilities. The Government indicates that private employment agencies (PEAs) are encouraged to advertise all job vacancies on the NELEX platform. In addition, it envisages taking steps to raise public awareness of the activities of the employment exchanges and the NELEX platform. ***The Committee reiterates its previous request that the Government provide detailed information on the measures taken or envisaged by the employment services, with the cooperation of the social partners, to encourage the full use of employment service facilities. The Government is requested to provide specific examples of activities conducted to reach out to the local workforce in various geographical regions of the country.***

Article 11. Cooperation between public and private employment agencies not conducted with a view to profit. The Committee notes the provisions of the NEP concerning the regulation of the activities of PEAs operating in the country. In particular, the Government, through the FMLE, undertakes to ensure adequate protection for the workers placed by such agencies. The Government reports that annual capacity-building workshops carried out with PEAs have strengthened existing cooperation between the employment service and PEAs. It adds that the workshops have resulted in improved compliance by PEAs with statutory provisions and have raised their awareness of decent work principles. ***The Committee requests the Government to continue to provide updated information on the measures taken or envisaged to ensure effective cooperation between the public employment service and PEAs not conducted with a view to profit, including information on the content and outcome of the annual capacity building workshops for such agencies.***

Panama

Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

The Committee notes the observations of the National Confederation of United Independent Unions (CONUSI), received on 31 August 2018. ***The Committee requests the Government to provide its comments in this respect.***

Articles 1, 2 and 3 of the Convention. Implementation of an active employment policy. Participation of the social partners. The Committee notes with ***interest*** the series of measures adopted by the Government in collaboration with the social partners to achieve the objectives established in the Convention. The Government refers to the adoption, on 30 March 2017, of the National Strategic Plan with the “Panama 2030” State Vision, achieved through the active participation of stakeholders such as the National Council of Organized Workers (CONATO) and the National Council of Private Enterprise (CONEPC). The Plan brings the Government Strategic Plan 2015–19 and the priorities of the National Development Dialogue (CND) into line with the United Nations Sustainable Development Goals (SDGs). Its objectives include inclusive and sustainable growth, full and productive employment, and decent work for all, as well as the promotion of inclusive and equitable quality education. Furthermore, in December 2016, a cooperation and technical assistance agreement was signed between the ILO and the Ministry of Labour, with the aim of implementing the recommendations of the High Commission on Employment, in particular, strengthening the technical training system in Panama and guaranteeing better quality and more informed labour market access, thus creating skilled and sustainable employment. In this regard, the action plan on technical education and vocational training entitled the “Preparing Panama Programme” was established with a view to accelerating the implementation of the initiatives required to address the

causes of the growing skills gap in the country's labour market. The Programme is based on two interlinked lines of action (employment and training), in which employers' and workers' organizations are participating. The priorities of the action plan for this Programme include the linking of education and vocational training, the establishment of a national qualifications framework, and the identification and dissemination of trends and skills requirements in the labour market. In this regard, the Government refers to the creation, with the participation of the social partners, of the Labour Market Intelligence Unit (UNIMEL), to provide up-to-date, timely and relevant information on the situation in the labour market in Panama, with a view to designing, monitoring and improving employment policies. With reference to labour market trends, the Committee observes that, according to the Labour Market Survey of the National Statistical and Census Institute (INEC), between August 2016 and August 2017, the number of people in employment aged over 15 years increased from 1,770,711 to 1,785,849, while the unemployment rate increased from 5.5 per cent to 6.1 per cent. CONUSI maintains that the statistical information on the labour market was scattered and did not allow for an accurate evaluation of the impact of the measures adopted to promote employment. In this regard, the Committee observes that the Government does not provide any up-to-date statistical information on the employment situation in the informal economy. Lastly, the Committee notes the detailed information provided by the Government on the consultations held with the social partners on employment and technical training. ***The Committee requests the Government to provide information on the impact of the measures adopted to achieve the objectives of the Convention, including those adopted under the National Strategic Plan with the "Panama 2030" State Vision, and the action plan on technical education and vocational training entitled the "Preparing Panama Programme". The Committee also requests the Government to continue to provide up-to-date statistical information on developments in the labour market, particularly the rates of labour force participation, employment, unemployment and underemployment, in both the formal and informal economy, disaggregated by sex and age. The Committee also requests the Government to continue to provide information on the consultations held with the social partners on the matters covered by the Convention.***

Peru

Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 1986)

The Committee notes the observations of the Autonomous Workers' Confederation of Peru (CATP), received on 2 September 2018. The Committee also notes the Government's replies to the observations of the CATP in 2017 and 2018, received on 9 February and 30 October 2018, respectively.

Articles 2 and 3 of the Convention. Implementation of vocational rehabilitation and employment policies for persons with disabilities. In reply to its previous comments, the Committee notes the Government's reference to the preparation of the National Policy on the Promotion of Employment Opportunities for Persons with Disabilities by the Ministry of Labour and Employment Promotion (MTPE), which is to be adopted following the incorporation into the text of comments and contributions by the persons concerned. A general national policy on disability is also to be developed and will cover various areas, such as health, education and labour. The Committee also notes the implementation of a joint programme on employment and disability with a focus on gender, with the participation of the ILO, the United Nations Population Fund (UNFPA) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), as well as the MTPE and the National Council for the Integration of Persons with Disabilities (CONADIS) of the Ministry of Women and Vulnerable Populations (MIMP). This programme aims to improve access for persons with disabilities to decent employment opportunities and to raise awareness of the skills of these persons and their potential to contribute to the productive life and development of their communities and the country. The joint programme will contribute to the improvement of employment access for persons with disabilities, by strengthening public administration at the local level and highlighting the particularly vulnerable situation of women with disabilities. With regard to the adoption of measures to encourage compliance with the 5 per cent quota for the recruitment of persons with disabilities in the public sector, the Government indicates that a number of proposals have been submitted to amend the regulations of Act No. 29973 in order to facilitate the fulfilment of this quota, but that these proposals have not yet been approved. The proposals concern, inter alia, the establishment of a specific procedure to follow if the public authorities do not meet the recruitment quota. The Government indicates that, according to the report entitled "Achieving the Labour Integration of Persons with Disabilities in the Peruvian Civil Service", published by the National Civil Service Authority (SERVIR) in October 2015, the low level of education of most persons with disabilities (only 12 per cent of whom completed higher education) prevents them from meeting the requirements for public employment. In this regard, the Government indicates that, in 2017, a working group comprising SERVIR and CONADIS was set up with the aim of putting forward proposals to change public policy so as to ensure the genuine inclusion of persons with disabilities and encourage public institutions to seek professional and competent workers among this population. Furthermore, under the National Human Rights Plan 2017–21, training and awareness-raising activities are to be carried out for public servants in relation to the labour aspect of the rights of persons with disabilities. The Plan also provides for the development of a study on the implementation of reasonable accommodations, with the aim of promoting the access of persons with disabilities to national Government bodies, by generating adequate information and establishing specific mechanisms to assess candidates with disabilities without discrimination and in accordance with the principle of equality of opportunity. Lastly, the Government indicates that, pursuant to section 49(3) of Act No. 29973, SERVIR is responsible for verifying compliance with the quota for the

recruitment of persons with disabilities, in coordination with CONADIS. As regards private sector enterprises with 50 workers or more, the Government indicates that the National Labour Inspection Supervisory Authority (SUNAFIL) is the competent body responsible for overseeing the regulations governing compliance with the 3 per cent recruitment quota established for the private sector. The Government indicates that the failure of private employers to meet the labour quota after two years from the entry into force of the above Act will lead to the application of the penalties established in Act No. 28806 (General Labour Inspection Act). The Government indicates that, with the aim of encouraging compliance with this quota, SUNAFIL has developed a tool enabling employers to establish whether their enterprise meets the quota. The Committee also notes the statistical information provided by the Government on the inspections carried out in the private sector with regard to compliance with the quota for the recruitment of persons with disabilities, and the results of these inspections. According to the Computerized Labour Inspection System (SIIT), in 2017, 488 inspection orders were completed in this regard. The Committee also notes the promulgation of Decree No. 1417 which amends, inter alia, section 50 of Act No. 29973. Pursuant to this section, employers in the public and private sectors are required to make reasonable accommodations, unless they demonstrate that such accommodations would impose an undue or disproportionate burden, in accordance with the criteria established by the MTPE. These accommodations must be made for persons with disabilities both in the selection process and in the workplace. This section also provides that employers shall receive advice and guidance in order to make reasonable accommodations for persons with disabilities in the workplace. The Committee also notes the information provided by the Government on the participation of persons with disabilities in the various employment programmes implemented, such as the *Jóvenes Productivos* programme, the *Impulsa Perú* programme and the *Perú Responsable* programme, and on the labour intermediation services provided for persons with disabilities by the National Employment Service (SNE).

In its observations, the CATP maintains that the measures adopted with a view to promoting labour market access for persons with disabilities are insufficient due to a lack of funding for these measures and of enforcement of the current legislation on the employment of persons with disabilities. It highlights that only two out of three persons with disabilities have completed or benefited from primary education, which makes their integration into the labour market even more difficult. Consequently, the CATP states that it is necessary to carry out joint action with the Ministry of Education in order to build the capacities of persons with disabilities. The CATP indicates that, while the general activity rate of the working age population is 74 per cent, for persons with disabilities the rate is only 22 per cent. It indicates that the majority of workers with disabilities are employed in the informal economy in temporary, precarious and low-paid jobs with high turnover rates. It reiterates that the rate of unemployment for persons with disabilities (12.1 per cent) is four times higher than the rate for the total population (3.7 per cent). The CATP states that it is necessary to examine the different types of disability and their impact on employability, and to simplify the administrative procedures required for persons with disabilities to gain recognition of their status and benefit from the measures to increase their employability and labour market access. ***The Committee requests the Government to continue to provide updated information on the status of the adoption of proposals to amend Act No. 29973 with a view to promoting the employment of persons with disabilities and encouraging compliance with the quota for the recruitment of such persons in the public sector. The Committee also requests the Government to continue to provide updated information on the impact of the measures adopted to promote employment opportunities for persons with disabilities, including persons with mental or intellectual disabilities, in the open labour market in both the public and private sectors. The Committee also once again requests the Government to provide summaries of studies and evaluations of the policies and programmes on the rehabilitation and employment of persons with disabilities, and other updated indicators of the results achieved by the legislative measures and policies adopted in favour of persons with disabilities.***

Article 5. Consultations with representative employers' and workers' organizations. In reply to the Committee's previous comments, the Government indicates that, pursuant to section 14 of Act No. 29973, organizations representing persons with disabilities are consulted prior to the adoption of standards, policies and programmes on issues relating to disability, to enable them to make observations and contributions. The Government adds that such consultations include the formulation, implementation and review of all public policies relating to the rights of persons with disabilities. For example, the Government refers to the active participation of organizations of and for persons with disabilities in the formulation of the National Accessibility Plan. The Government indicates that, between 2016 and 2017, technical consultations and meetings were held with organizations of and for persons with disabilities, employers' associations and public and private institutions, with a view to putting forward a proposal for a national policy to promote employment opportunities for persons with disabilities. Furthermore, in its reply to the CATP's observations, the Government indicates that, between February and May 2016, tripartite consultations were held in the context of formulating public policies on telework related to persons with disabilities and their access to employment. ***The Committee requests the Government to continue to provide detailed and updated information on the manner in which representative employers' and workers' organizations and representative organizations of and for persons with disabilities are consulted on the application and periodical review of the national policy on vocational rehabilitation for persons with disabilities.***

Poland

Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

The Committee notes the observations of the All-Poland Trade Unions Alliance (OPZZ), received on 31 August 2018, as well as the observations of the Independent and Self-Governing Trade Union “Solidarność”, received together with the Government’s report. The Committee also notes the Government’s reply to these observations, received on 22 October 2018.

Articles 1 and 2 of the Convention. Active employment policy and labour market measures. The Government refers in its report to a number of legislative amendments, including a series of amendments to the 2004 Act on the promotion of employment and labour market institutions (“the 2004 Act”). The Committee also notes the measures taken by the Government in its continuing efforts to improve the labour market situation, including targeted measures to promote employment for specific groups, such as young persons, older workers and the long-term unemployed. The Committee notes the measures taken through the adoption of the Act of 22 June 2017, amending certain acts in connection with the “For Life” programme to facilitate access to employment for persons caring for persons with disabilities. It notes, however, that no information is provided regarding measures taken or envisaged to promote access to vocational rehabilitation and employment on the open labour market for persons with disabilities themselves. The Government also refers to improvements made by the Ministry of Family, Labour and Social Policy to the Central Database of Job Offers. In its observations, while Solidarność recognizes the improved implementation of the policy to promote full and effective employment, it nevertheless stresses the need for faster and more effective legislative action. Solidarność also maintains that more financial resources should be allocated from the Labour Fund towards the professional activation of the long-term unemployed. In its reply, the Government reports that 67,997.2 Polish zloty (PLN) were allocated from the Labour Fund for the implementation of activation programmes for the long-term unemployed in 2018. Solidarność also refers to abuses in relation to self-employment, civil law contracts and fixed-term employment contracts. In its reply, the Government reports that the proportion of vacancies to be filled under civil law contracts in 2015–17 out of the total number of job vacancies remained stable at between 29 to 34 per cent. It adds that, in 2017, a 3 per cent decrease in this type of contract was observed. The Committee notes that civil law contracts which do not provide for certain employment benefits and offer less occupational safety and health protection than employment contracts could constitute an abusive practice. Solidarność further indicates that the Parliament is preparing a new Act, the Labour Market Act, to replace the 2004 Act. It expresses concern that the draft Act proposes the deletion of a number of employment activation measures, including profiling assistance for every unemployed person, employment vouchers, as well as the Activation and Integration Programme (PAI), which targets the most disadvantaged persons in the labour market. The Government, in its reply, indicates that these solutions were abandoned as they were unsuccessful or inflexible in practice, and therefore, new forms of employment support and job creation are being proposed in the draft Labour Market Act. The Government refers to the National Training Fund (NTF), which was established in 2014, in the framework of the “Europe 2020” Strategy, to support investment in human resources. It adds that, in 2017, NTF funds were used by public employment services (PES) to support 5,000 employers and over 100,000 employees. Solidarność recognizes that the NTF’s scope of activities has been extended and now enables greater engagement of the social partners. Responding to the Committee’s request for information regarding measures taken to facilitate workers’ transition from temporary to permanent employment, the Government indicates that the Act of 7 April 2017 amending the Act on hiring temporary workers and certain other acts, introduced changes aiming to support the transition to permanent employment by imposing limits for temporary work arrangements, as well as penalties for temporary work agencies and user enterprises who violate these limits. Solidarność, on the other hand, expresses concern that current policies facilitate the activities of employment agencies, including temporary work agencies, often leading to situations where these entities are unprepared organizationally and lack the appropriate competencies. Solidarność therefore stresses the importance of adopting legislative changes to promote the strict regulation, supervision and control of the operations of such agencies. In its response, the Government indicates that the National Labour Inspectorate supervises the operation of private employment agencies (PEAs) in accordance with the conditions set out in the 2004 Act, which also introduced two types of certificates entitling PEAs to provide: (a) job placement services and counselling; and (b) temporary work services. It also reports that protection of the rights of employees of temporary employment agencies is provided by the 2004 Act and the Act on the Protection of Employee Claims. The Committee notes that, in the second quarter of 2018, three temporary work agencies were removed from the employment agency register because they were in arrears with payment of their social insurance premiums. ***The Committee requests the Government to provide updated detailed information on the impact of its national employment policy, including of the measures taken to promote the integration of the long-term unemployed in the labour market. Recalling its 2012 comments, the Committee also requests the Government to provide information regarding the nature and impact of measures taken or envisaged to promote the employment of persons with disabilities and other disadvantaged groups, including those in rural areas and in the undeclared economy. Referring to its 2016 comments on the Private Employment Agencies Convention, 1997 (No. 181), notably regarding the use of civil law contracts instead of the appropriate employment contracts, the Committee requests the Government to provide information on the measures taken to regulate and supervise the operation of employment agencies and prevent abuses of workers in this respect (Article 1(1)(b) of Convention No. 181). It also requests the Government to communicate a copy of the new Labour Market Act once it has been adopted. Moreover, noting the proposed deletion of a number of employment***

activation measures, the Committee requests the Government to provide information on the reasons for the suppression of these measures and to provide information on alternative employment activation measures taken or envisaged.

Article 2. Employment trends. The Government reports that the labour market situation continued to improve during the reporting period, which it attributes to a favourable economic situation and labour office activities. The Committee notes that the employment rate for persons aged 15–64 increased from 62.9 per cent in 2015 to 66.1 per cent in 2017, while the unemployment rate decreased from 7.6 per cent in 2015 to 5 per cent in 2017. The registered unemployment rate fell from 9.7 per cent in 2015 to 6.6 per cent in 2017. **The Committee requests the Government to continue to provide detailed information, including updated statistics, disaggregated by gender and age, on the situation and trends of the labour market in the country, including information on employment, unemployment and visible sub-employment.**

Older workers. The Committee notes that the percentage of persons aged 45 and older among the registered unemployed increased from 32 per cent in 2013 to 36 per cent in 2017. The Government refers to a number of measures provided by PES to promote the employment of older persons, including the provision of financial support and encourage employers to recruit older workers. The Committee further notes the support provided to this group of workers through training courses and internships. The Government indicates that, in 2017, the Labour Fund allocated PLN458,752.5 to support the activation of persons aged 50+, with persons aged 45+ constituting the largest group among both employers and employees that benefited from the activities financed from the NTF. **The Committee requests the Government to continue to provide information on the impact of the measures adopted to increase the employability of older workers and promote their integration and retention in the labour market.**

Youth employment. The Committee notes with *interest* the improvement of the situation of young people in the labour market. It notes that the unemployment rate among persons aged 15–24 fell from 20.8 per cent in 2015 to 14.8 per cent in 2017, reaching a low of 11 per cent at the end of April 2018. Correspondingly, the employment rate of young people rose from 29.1 per cent in 2017 to 31 per cent in 2018. The Government refers to a series of active employment measures implemented to assist young people in entering the labour market, including measures aimed at reducing skills mismatches by providing young people with the qualifications or professional experience needed in the labour market, such as training courses and internships. The Committee notes that the revision of the 2004 Act introduced a series of new measures targeted at young people up to the age of 30, including settlement, employment, placement and training vouchers, as well as financial assistance to employers who hire such young persons, through the Labour Fund and the “Work for Young People” programme. In response to the Committee’s previous request regarding the relationship between measures aimed at increasing employment for young people and those focused on retaining older workers in the labour market, the Government indicates that the 2004 Act includes both groups in the category of those who are unemployed in a special situation in the labour market. They are therefore given priority in terms of employment services and benefits. While the Government indicates that it does not have precise studies indicating the degree to which implementation of the Youth Guarantee has contributed to improving the situation of young people in the labour market, it refers in its report to the significant decrease in unemployment rates for young people. **The Committee requests the Government to continue to provide detailed information, including statistics disaggregated by age and sex, on the efforts made to improve the labour market situation of young persons, the results achieved and challenges encountered in implementing the youth employment policy objectives. The Committee requests the Government to continue to provide information on the contribution of the implementation of the Youth Guarantee to improving the situation of young people in the labour market.**

Article 3. Consultations with the social partners. The Government reports that the tripartite Labour Market Council, established under the 2004 Act, enables the social partners to participate in setting the priorities for spending funds from the NTF reserve, and, thus, to decide on the allocation of funds to training for groups of employees, companies/industries or regions that are particularly in need. It adds that social partners participated actively in an assessment carried out to improve the functioning of the NTF and that the draft Labour Market Act includes new provisions aimed at improving the NTF and increasing the role of social partners in decision-making process regarding the allocation of NTF funding. In its observations, the OPZZ expresses concern regarding the lack of consultations in the area of migration policy. It indicates that, in March 2018, the Council of Ministers adopted a document entitled “Social-economic priorities of migration policy”, which provides that the new national migration policy must be adjusted to new labour market priorities and focuses on supplementing labour resources with persons from outside Poland, in professions which face skills gaps. The OPZZ maintains that the social partners were not consulted with regard to this policy. In its reply to the observations, the Government indicates that the document contains only the basic elements of the policy and that work on the Action Plan has not yet been completed, as the document is still being analysed by the relevant ministries involved in its development. **The Committee reiterates its request that the Government provide specific information on the manner in which representative organizations of workers and employers and other stakeholders are consulted concerning active employment policies, and the manner in which their support is ensured in the development and implementation of such policies. It further requests the Government to provide information on any developments in relation to the migration policy, and to provide copies of any policy documents adopted in this area.**

Romania

Employment Policy Convention, 1964 (No. 122) (ratification: 1973)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Articles 1 and 2 of the Convention. Employment trends and active labour market policies. The Government indicates in its report that, taking into account the fact that the number of jobs created by the Romanian economy remains low, due to the economic crisis and restructuring, the most affected population categories are the ones situated at the extremes of the labour market, that is, young people and elderly workers. The Committee notes that the National Strategy for Employment 2014–20 includes specific objectives and directions of action, such as increasing youth employment and extending the working life of the elderly, by reducing youth unemployment and the number of NEET young people (not in employment, education or training) and increasing labour market participation of the elderly. With an employment rate for older workers of 43.1 per cent in 2014 (Romania is situated below the EU-28 average), the inclusion of this category is being hampered by a number of barriers from the perspective of workers, such as uncorrelated skills with actual requirements, but also from the perspective of employers (low productivity of the workforce, resistance to change, reduced adaptability). The Government indicates that, without the participation of older workers, there will be a deficit of human and professional resources. Moreover, facing the perspective of the working-age population decline, the Government states that an increasing rate of women in employment appears to be essential in achieving the national objective in employment established in the context of the Europe 2020 Strategy. With regard to women's participation in the labour market, registering an employment rate of 16.7 percentage points lower than the rate of men in 2014, the Government indicates that women are situated in a vulnerable position in the Romanian labour market. **The Committee requests the Government to provide information on the impact and effectiveness of its employment policy measures in terms of productive job creation, in particular for the most vulnerable workers.**

Youth employment. The Committee notes that, according to EUROSTAT, the youth unemployment rate was measured at 23.7 per cent in 2013 and 24 per cent in 2014. The Government indicates that, in 2012, the Ministry of Labour elaborated the 2013 national plan to stimulate youth employment. Measures in the plan focused on implementing youth guarantee type programmes, improving the entrepreneurial culture among youth and in small and medium-sized enterprises (SMEs), developing, as well as adapting education and vocational training to the labour market demands. With regard to the integration of young people into the labour market, the Government indicates that the consolidated State Budget financed programmes dedicated to improve youth entrepreneurial skills and the set-up of micro-enterprises by young entrepreneurs. In this regard, 8,000 new jobs were created and young entrepreneurs set up 464 start-ups. At the beginning of 2014, the Ministry of Labour, Family, Social Protection and Elderly launched the Youth Guarantee Implementation Plan 2014–15, a policy framework document developed by the Ministry of Labour in cooperation with other relevant stakeholders. **The Committee requests the Government to provide updated information on the impact of the measures taken to facilitate lasting employment opportunities for young people.**

The Roma minority. The Committee notes the Government's statement indicating that the Roma population faces special problems, generated by the low level of education, a low participation on the labour market, the large category of persons not engaged in economic activities which includes homemakers, retirees, persons incapable of work, welfare beneficiaries and unemployed people. In line with EU recommendations, in early 2013 the review of the Governmental Strategy for inclusion of Romanian citizens of Roma minority for the period 2012–20 was initiated. The Committee notes the results of measures implemented targeting the Roma minority in 2012–14. In this regard, 5,302 jobseekers of the Roma minority obtained employment through active employment measures in 2014 (3,023 employment contracts of an indefinite duration and 2,279 fixed-term contracts). **The Committee requests the Government to continue to provide detailed information on the impact of the measures taken to enhance the social inclusion and increase employment opportunities of the Roma minority.**

Article 3. Participation of the social partners in the formulation and implementation of policies. The Government indicates that, in the context of the reform of the social dialogue legislation, the Law on organizing the Economic and Social Council was adopted in March 2013. **The Committee requests the Government to provide specific examples of how the social partners are effectively consulted and participate in decision-making on the matters covered by the Convention. Please also include information on the measures taken or envisaged to ensure that these consultations include representatives of other sectors of the active population, particularly representatives of the Roma minority and of persons working in the rural sector and the informal economy.**

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Sierra Leone

Employment Service Convention, 1948 (No. 88) (ratification: 1961)

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2004.

Contribution of the employment service to employment promotion. ILO technical assistance. The Committee previously noted the Government's statement, contained in a report received in June 2004, indicating that the legislation on employment services has been included on the agenda of the Joint Advisory Commission for discussion. It was the Government's intention to provide a new mandate to employment services so that they are transformed into dynamic labour market information centres. The new employment services will have to cover not only urban centres but also rural areas and ensure the provision of information, planning and the application of employment policies throughout the country. The Government also stated that ILO technical assistance is required to achieve its objectives. The Committee welcomed the fact that the Government was proposing to strengthen employment services. It also recalled that the Office provided support for programmes for the generation of employment opportunities by strengthening employment services for young persons. **The Committee hopes that the Government will be in a position to describe in its next report the manner in which the employment services reforms have contributed to securing their essential duty, which is to ensure "the best possible organization of the employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of**

productive resources” (Article 1 of the Convention), in cooperation with the social partners (Articles 4 and 5). In this respect, the Committee would be grateful if the Government would provide the statistical information that has been compiled concerning the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices (Part IV of the report form).

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Spain

Private Employment Agencies Convention, 1997 (No. 181) (ratification: 1999)

The Committee notes the observations of the General Union of Workers (UGT) and the Trade Union Confederation of Workers’ Commissions (CCOO), received on 27 July and 11 August 2017, respectively. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2017, supporting the observations made by the Spanish Confederation of Employers’ Organizations (CEOE). The Committee also notes the Government’s replies in this regard.

Article 13 of the Convention. Cooperation between the public employment service and private employment agencies. In its previous comments, the Committee requested the Government to indicate how, following prior consultations with the social partners, the arrangements are revised for cooperation between the public employment service and private employment agencies in the context of the framework agreement with employment agencies for collaboration with public employment services on the labour market insertion of jobseekers concluded in 2014 between the public employment service and employment agencies. The UGT reiterates its previous observations that the social partners did not participate in the development or implementation of the framework agreement, as their participation in the monitoring committee for the framework agreement was not stipulated. The UGT asserts that employment policies have not been set in relation to private employment agencies in consultation with the social partners, which has hampered them in performing their functions in the bodies in which they participate: the national employment system and the public employment service. The UGT also alleges that the social partners did not participate in the design and development of the tender documents for private employment agencies, nor in their monitoring and evaluation. The UGT also affirms that the social partners were not involved in determining the amount of the annual budget of the Public State Employment Service (SEPE) that would be allocated to public–private collaboration. The UGT indicates that it has finally received information from the Central Executive Committee of the SEPE, following repeated requests, in relation to the development of the framework agreement and its adoption, implementation and its extension until June 2018. In its observations, the CCOO alleges non-compliance with *Article 13* of the Convention by the Government and reiterates its previous comments in which it alleged the systematic absence of social dialogue. In its response to the observations of the workers’ organizations, the Government indicates that it provided information on the framework agreement in the meeting of the National Employment System General Council on 24 July 2013. Regarding the observations of the CCOO, the Government adds that, since 2012, the European Union has been making recommendations to the Spanish Government, in the context of the European Semesters, regarding the need to strengthen public–private collaboration between the public employment service and private employment agencies, in order to improve the assistance provided to jobseekers. The Government indicates that, with a view to achieving this goal, it has been promoting the activities of private employment agencies to supplement the action of the public employment service. The Government adds that Royal Decree No. 1796/2010 of 30 December establishes the private employment agencies as collaborating entities of the public employment service, from which they may receive funding. The Government adds that the social partners were kept informed, via the Central Executive Committee, of the bidding process for the selection of the 80 employment agencies and other aspects of the framework agreement. The UGT indicates that little information was communicated to the social partners and many issues remain to be resolved, such as the content of the private contracts signed by private employment agencies and the regional governments of the Autonomous Communities, which address issues that were not contemplated in the framework agreement or set out in the list of conditions. The UGT indicates that the social partners are not aware of the placement objectives that must be met by private employment agencies, the payments made to private employment agencies, the selection criteria for unemployed persons whose placement will be managed by private employment agencies, the possibility for unemployed persons to choose between the public employment service or a private employment agency, the consideration of placement time and whether contracts are temporary or part time, the requirement to accept employment considered to be underemployment and the related consequences for the unemployed person. In their observations, the CEOE and the IOE assert that, in light of the current unemployment rate, the assistance of the private sector is decisive and urgent. They indicate that the implementation of the public–private collaboration model in employment placement is hampered by administrative constraints, as private employment agencies are seen as competitors by the public sector. As a result, private employment agencies are required to place unemployed persons with a full-time employment contract of at least six months within period of eight months. In its response, the Government indicates that private employment agencies can act independently but in coordination with the public employment service, and/or as collaborating entities through a partnership agreement. The Government specifies that, following the amendment introduced by Royal Legislative Decree No. 8/2014 of 4 July, private employment agencies do not need the authorization of the public employment service; it is sufficient for them to present a declaration to the competent public employment service before taking action. The private employment agencies must also carry out their activities in conformity with the

provisions of the partnership agreement, providing the information required by the agreement and guaranteeing that the services funded by the public employment service are free-of-charge for workers and employers. The Committee recalls that, under *Article 13* of the Convention, in accordance with national law and practice, consultations shall be conducted with “the most representative organizations of employers and workers” to establish and periodically review conditions to promote cooperation between the public employment service and private employment agencies. ***The Committee reiterates its request to the Government to indicate the manner in which, following prior consultation with the social partners, the arrangements are revised for cooperation between the public employment service and private employment agencies in the context of the 2014 framework agreement. The Committee also requests the Government to provide updated information on the status of the framework agreement, its content, the number of private employment agencies it covers and the conditions under which these agencies carry out their work at the level of the Autonomous Communities.***

Legislative developments. The Committee notes the information provided by the Government in its report on the legislative changes introduced in relation to employment agencies and temporary work agencies under Act No. 18/2014, of 15 October, approving urgent measures for growth, competitiveness and efficiency; and Royal Decree No. 4/2015, of 29 May, approving the regulations covering temporary work agencies. ***The Committee requests the Government, taking into account the relevant provisions of the legislation in force (Act No. 18/2014 and Royal Decree No. 4/2015), to provide detailed information on the impact in practice of the legislative changes on the activities of private employment agencies, and particularly of temporary employment agencies. The Committee requests the Government to provide detailed information on the manner in which it is ensured that private employment agencies, including temporary work agencies, apply the principle of non-discrimination and provide services to their clients that facilitate their access to decent work, avoiding instances of underemployment and discrepancies between the remuneration received by temporary workers and that received by employees of the client enterprise.***

Judicial decisions. The Committee notes with *interest* the court rulings provided by the Government related to the activities of private employment agencies and the labour rights of temporary workers. ***The Committee requests the Government to continue providing copies of court rulings relevant to the application of the principle of the Convention.***

Sudan

Employment Policy Convention, 1964 (No. 122) (ratification: 1970)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 106th Session, June 2017)

The Committee recalls that the Conference Committee on the Application of Standards (CAS), in its June 2017 session, taking into account the persistence of high unemployment and underemployment in the country, which principally affects the most vulnerable persons, women and youth, requested the Government of Sudan to develop a coherent strategy, in the framework of the national policy, to promote full, productive and freely chosen employment with the participation of representatives of the most representative workers’ and employers’ organizations. It also requested the Government to continue availing itself of ILO technical assistance, so that the capacity of employers’ and workers’ representatives could be strengthened.

Articles 1, 2 and 3 of the Convention. Formulation of an employment policy and coordination with poverty reduction. Consultation with the social partners. The Committee welcomes the information provided in the Government’s report in relation to efforts made to implement the conclusions of the CAS. The Government indicates that, to this end, a road map was developed for the implementation of the national employment policy and an agreement was signed between the Government, the ILO and the United Nations Development Programme (UNDP). In addition, a 35-member working group of the tripartite High Consultative Committee for the National Employment Policy was tasked with formulating the policy, in accordance with Decision No. 33 of 28 August 2014 of the Minister of Labour and Administrative Reform. The High Consultative Committee carried out its work through specialized committees and working groups supported by international experts. The Government adds that the High Consultative Committee approved the policy in its final version on 15 November 2017. It was subsequently submitted and approved by the Minister of Labour and Administrative Reform on 13 December 2017, submitted to the Council of Ministers and examined by the joint meeting of technical committees in January 2018. The policy was submitted to the competent department in the Council of Ministers on 25 September 2018. After final review by that department, it will be submitted again to the Council of Ministers for approval. The Committee notes that the draft policy aims to promote productive and freely chosen work in which the worker can use his or her capacities without discrimination. The Government indicates that Sudan’s vision of the future is based on its national strategy 2007–31 and national five-year plans arising from the strategy. The Government adds that the policy is also based on the Sustainable Development Goals and existing poverty reduction strategies. The draft policy provides for operationalizing strategies to: promote growth that supports employment; improve the performance of the labour market; and improve the quantity and quality of the vocational training system. The Government emphasizes that social protection is a priority. ***The Committee welcomes the efforts made by the Government to develop and implement a national employment policy in accordance with the recommendations made by the Conference Committee. It invites the Government to continue to provide updated***

detailed information in this regard, and to provide a copy of the policy once it is adopted. In addition, the Committee requests the Government to continue to provide detailed information on the consultations held with the social partners in relation to the formulation and implementation of an active employment policy, as well as to provide information on consultations with representatives of the persons affected by the measures to be taken, such as women, young persons, those working in rural areas and in the informal economy.

Article 2. Collection and use of labour market data. Employment trends. In response to the Committee's previous request, the Government once again communicates data from the 2011 Labour Force Survey. *Noting the Government's indication that the next Labour Force Survey will be finalized in 2019, the Committee reiterates its request that the Government provide updated statistical data, disaggregated as much as possible, on the situation and trends of employment, unemployment and visible underemployment, in the formal and informal economies.*

Uganda

Employment Policy Convention, 1964 (No. 122) (ratification: 1967)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Articles 1 and 2 of the Convention. Coordination of employment policy with poverty reduction. In its previous comments, the Committee requested the Government to provide information on the results achieved and the difficulties encountered in attaining the employment policy objectives set out in its National Employment Policy (NEP). The Committee notes the detailed information contained in the evaluation of the implementation of the NEP conducted by the Ministry of Finance, Planning and Economic Development. According to the evaluation findings, the overarching development agenda addressed the most pressing employment challenges, but did not effectively translate into a coherent implementation strategy due to inadequate coordination across the government, inadequate labour market information, conflicting policy objectives and a bias towards short-term priorities over longer-term sustainable progress. In addition, the National Employment Council, the governmental body responsible for coordinating, guiding, streamlining and monitoring efforts towards implementation of the NEP, has not yet been established. The Committee notes that the country has registered a modest increase in total employment in recent years and that lower-productivity activities, such as subsistence agriculture and petty trade have expanded. In this regard, the Committee observes that the percentage of the formal and informal labour engaged in low productivity agricultural activities increased from 69 per cent in 2009 to 72 per cent in 2012–13. Moreover, according to the Uganda Bureau of Statistics (UBOS), the rate of unemployment under the newly revised definition (which counts subsistence farmers as employed persons) was 9.4 per cent in 2012–13, while the underemployment rate during the same period was 8.9 per cent, being especially common in the agricultural sector. Furthermore, while the percentage of people living below the poverty line decreased from 24.3 per cent in 2009–10 to 19.7 per cent in 2012–13, significant disparities in poverty levels persist across regions and between rural and urban areas, with the highest levels of poverty reported in Northern Uganda (44 per cent). The Committee notes the adoption of the second National Development Plan 2015/16–2019/20 (NDPII) in June 2015, whose principal objective is “strengthening the country's competitiveness for sustainable wealth creation, employment and inclusive growth”. *The Committee requests the Government to provide information on the results achieved and the challenges encountered in attaining the employment policy objectives set out in the second National Development Plan (NDPII), including results of the programmes established to stimulate growth and economic development, raise living standards, respond to labour force needs and address unemployment and underemployment. The Committee further requests the Government to continue providing up-to-date information, including statistical data disaggregated by economic sector, sex and age, on the current situation and trends regarding the active population, employment, unemployment and underemployment throughout the country and in the different regions.*

Promotion of youth employment. The Committee previously requested the Government to provide information on the results of the programmes adopted concerning education and vocational training for young persons as well as on efforts made to improve the employment situation for young persons. The Committee notes that, according to the NDPII, young persons make up 21.3 per cent of the total population and 57 per cent of the labour force. According to the UBOS, the number of young persons in employment increased from 63.1 per cent in 2013 to 64.5 per cent in 2015; however, the unemployment rate for young persons also increased from 9.7 per cent in 2013 to 14.7 per cent in 2015. Moreover, the vast majority of all young workers (92 per cent) were engaged in informal employment in 2015. The Committee notes that, in response to high rates of unemployment and poverty among young persons, in December 2016 the Government launched the Youth Livelihood Programme (YLP) under the Ministry of Labour, Gender and Social Development (MLGSD) and with the participation of key stakeholders. The YLP provides young persons with vocational skills and interest-free loans to assist them in becoming self-employed. In relation to the education of the labour force, the Committee notes that the school-to-work transition survey (SWTS–2015) developed by the ILO shows that 68 per cent of young Ugandans not in school had only completed a primary education, while only 3.4 per cent had completed a tertiary education. In this regard, the Committee notes the adoption of the National Adult Literacy Policy 2014 and Action Plan (2011/12–2015/16) intended to guide the provision and coordination of adult literacy services. In addition, during 2009–13, enrolment in formal business, technical, vocational education and training (BTJET) increased by 73 per cent (with 66 per cent men and 34 per cent women). Enrolment in higher education increased by 18 per cent, with a significant increase in female enrolment. Nevertheless, according to the SWTS–2015 findings, young persons with a tertiary level of education had higher levels of unemployment (12 per cent) than the national average. Despite the adoption of the BTJET Strategic Plan 2011–20 in 2011, persistent challenges highlighted by the NDPII in the area of vocational education and training include: inadequate skills to support increased production and expansion; poor work readiness of many young people leaving formal education and entering the labour market; inadequate linkages between employers and workplace learning; and lack of literacy. *The Committee requests the Government to provide detailed information on the manner in which the implementation of the Youth Livelihood Programme (YLP) and other programmes providing education and vocational training for young persons has promoted access for young people to full, productive and freely chosen employment. The Committee also requests the Government to provide information on the measures envisaged or adopted to reduce the unemployment rate of young people, particularly those with higher levels of education, and to reduce the percentage of young people in informal employment.*

Promotion of women's employment. In its previous comments, the Committee requested the Government to provide information on the measures adopted to improve job creation and increase the labour market participation of women. The

Government reports that, according to data derived from the Uganda National Household Survey (UNHS) data 2012–13, 45 per cent of the total employed population were women, but only 39.1 per cent were in wage employment. The NDPII indicates that there has been improvement in the number of women in political leadership and in terms of gender parity in enrolment of boys and girls at the primary school level, in addition to increased ownership of land by women. The Committee also notes the prioritization of gender equality in Uganda's Vision Statement 2020 as a cross-cutting enabler for socio-economic transformation, and the implementation of the Uganda Women Entrepreneurship Programme (UWEP) under the MLGSD, with the aim of contributing to the creation of self-employment and household wealth through activities such as the mobilization and sensitization of communities, training and capacity development, and provision of access to credit, appropriate technology and markets. The Committee notes, however, that despite the progress made, the conditions sustaining gender inequality persist: gender disparities in access and control over productive resources such as land (only 27 per cent of registered land is owned by women); the limited share of women in wage employment in the non-agricultural sector; higher rates of illiteracy among the female labour force than the male labour force (27.6 per cent of women and 12.3 per cent of men have no formal schooling). ***Recalling the Committee's 2014 comments under the Equal Remuneration Convention, 1951 (No. 100), concerning the occupational segregation of women and its contribution to the gender pay gap, the Committee requests the Government to provide information on the measures taken or envisaged to combat the persistence of occupational segregation on the basis of sex (both vertical and horizontal) and to increase the labour force participation rate of women in the formal labour market.***

Informal economy. In its previous comments, the Committee requested the Government to provide information on the measures adopted or envisaged to extend access to justice, property rights, labour rights and business rights to the informal economy workers and business, and to indicate the manner in which Government initiatives relating to micro-enterprises had contributed to improving working conditions in the informal economy. The Committee notes the growing importance of the informal economy, which has absorbed four out of five new entrants into the labour market. According to the SWTS-2015, 92 per cent of young workers were involved in informal employment (93 per cent women and 91 per cent men). The rate of informal employment in rural areas was higher (94 per cent) than that in urban areas (87 per cent). The Government indicates, moreover, that the informal economy is characterized by widespread labour right violations and decent work deficits. In particular, workers in the informal sector are excluded from social security protection and there are important gaps in terms of social dialogue. The Committee notes that the majority of micro-, small and medium-sized enterprises (MSMEs), operate informally. In this respect, the Committee notes the adoption, in consultation with stakeholders, of the Micro-, Small and Medium Enterprise (MSME) Policy in June 2015, which provides opportunities for informal MSMEs to increase their expertise through skills upgrading and certification, and encourages them to formalize their operations in order to enjoy greater legitimacy through government protection. ***Noting that a growing proportion of the labour force is employed in the informal economy, the Committee requests the Government to provide information on the efforts made to extend access to justice, property rights, labour rights and business rights to informal economy workers and business (see General Survey of 2010 on employment instruments, paragraph 697). It also requests the Government to indicate the manner in which the Micro-, Small and Medium Enterprise (MSME) Policy has contributed to improving working conditions in the informal economy, particularly for young persons.***

Article 3. Participation of the social partners. The Committee notes that the NDPII was formulated in collaboration with stakeholders, including ministries, local governments, the private sector, civil society organizations and international agencies. In addition, the NDPII emphasizes that the Government should take overall responsibility for its implementation with the participation of the private sector, development partners, the civil society and other non-state actors. ***The Committee requests the Government to provide detailed information on the involvement of the social partners in the implementation of the second National Development Plan (NDPII).***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Bolivarian Republic of Venezuela

Employment Policy Convention, 1964 (No. 122) (ratification: 1982)

The Committee notes the observations of the Independent Trade Union Alliance Confederation of Workers (CTASI), received on 29 August 2018, and also the observations of the International Organisation of Employers (IOE) and the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), received on 1 September 2018. The Committee also notes the observations of the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the Confederation of Autonomous Trade Unions (CODESA) and the General Confederation of Labour (CGT), received on 26 September 2018. It also notes the Government's replies to the 2017 observations of the social partners. ***The Committee requests the Government to provide its comments in relation to the observations received in 2018.***

Articles 1 and 2 of the Convention. Implementation of the employment policy within the framework of a coordinated economic and social policy. Measures to respond to the economic crisis. The Committee notes the Government's indication, in response to previous comments, that it is continuing to design and implement a range of measures, policies and programmes with a view to strengthening, improving and encouraging better protection, social inclusion and recognition of the social rights of the Venezuelan people. The Government adds that, in this context, it presented the National Economic and Social Development Plan 2019–25 (*Plan de la Patria*), the objectives of which include employment security, introduced by various decrees, the most recent of which dates from 28 December 2015 and establishes immunity from dismissal for men and women workers for a period of three years. Consequently, during this period dismissals may not be carried out without good grounds and may only occur in strict compliance with the procedures established in the labour legislation. The Government also refers to the implementation of several measures to promote employment, such as the establishment of Social Welfare Divisions, operational units that provide comprehensive services, such as advice, guidance and coordination for: inclusion; re-employment; the granting of benefits for involuntary loss of employment; and labour migration. These services cover men and women workers with disabilities, migrant workers, those whose employment has been terminated against their will, and the self-employed. Furthermore, the

Government indicates that it has incrementally increased the minimum wage with a view to improving the living conditions of women and men workers. The most recent wage increase, introduced during the reporting period in June 2018, fixed the minimum wage at 3 million *bolívars fuertes* (Bs. F.) per month. The Government also refers to the implementation of the Socialist Cesta Ticket Act (Decree No. 3.233, published in *Special Official Gazette* No. 6.354 of 31 December 2017), under which the basis for calculation of the Socialist Cesta Ticket was adjusted for men and women workers who provide services in the public and private sectors to 61 tax units per day, for 30 days per month. Furthermore, under Decree No. 3.393, published in *Special Official Gazette* No. 41.388 of 30 April 2018, the tax unit amount used for calculation was increased to 580 *bolívars* (Bs). Lastly, the Government indicates that it maintained the policy of inclusion in the pension system and the standardization of pension payments on the basis of the national minimum wage. In that regard, the Government reports that, in April 2018, there were 3,780,674 beneficiaries, accounting for more than 70 per cent of Venezuelan women over the age of 55 years and men over the age of 60 years.

The Committee also notes that the workers' confederations UNETE, CTV, CGT and CODESA allege in their observations that the high levels of informality, vulnerability and precarious employment in the country make it difficult to achieve the objectives of decent, productive and quality employment. In this regard, the CTASI indicates that, according to the 2017 National Living Conditions Survey (ENCOVI), 44 per cent of those in employment did not have any type of contract, 10 per cent were employed by means of a verbal contract and 7 per cent had a temporary contract. The CTASI also alleges decreased access to statutory employment benefits. In particular, it reports that in 2017 only 35.5 per cent of workers received paid leave, only 31.1 per cent were registered with the Venezuelan Institute of Social Security (IVSS), 34 per cent received food vouchers and 41.5 per cent reported receiving end-of-year bonuses or allowances. The CTASI asserts that in 2017 some 2.2 per cent of workers were underemployed, meaning that they worked fewer than 15 hours per week. Furthermore, 4.1 per cent of workers earned less than the comprehensive minimum wage, despite working more than 40 hours per week. Regarding workers' remuneration, the CTASI affirms that, until September 2018 when the country entered hyperinflation, 82 per cent of those employed earned less than the comprehensive minimum wage. According to the CTASI, the cost of going to work was higher than the wages earned by workers. As a result, many preferred to resign from their official jobs in favour of informal activities (the informal economy grew from 30.6 per cent in 2014 to 37.5 per cent in 2017) or to survive on some sort of state funding. UNETE, the CTV and the CGT denounce the current economic measures, adopted after the Government had provided its report, such as the adoption of the new minimum wage of 1,800 *bolívars soberanos* (Bs.S.) in August 2018 and the unilateral fixing of the Cesta Ticket food voucher at 10 per cent of the minimum wage, infringing the principle of progressivity established in the legal system and eliminating the benefits set out in the collective agreements in force. The Committee also notes that the IOE and FEDECAMARAS once again claim that the Government has still not adopted an effective policy to promote employment. Furthermore, the employers' organizations refer to International Monetary Fund statistics that predict inflation of 1 million per cent by the end of 2018. ***The Committee requests the Government to continue to provide detailed information on the specific measures taken to formulate and adopt an active employment policy designed to promote full, productive and freely chosen employment, in full compliance with the Convention.***

Labour market trends. In response to the Committee's previous comments, the Government reports that the employment rate was 93 per cent in the second quarter of 2017 and the unemployment rate was 7 per cent. The Government adds that, while men have a higher participation rate (59.8 per cent), the number of women in employment increased from 4,682,402 in 2008 to 5,828,388 in 2017. The Government indicates that this situation is a result of the policies and programmes developed with a view to increasing women's employment rate including the establishment of institutions to implement those programmes and the capacity development and funding of socio-productive projects for women. The Committee notes the Government's indication that the employment rate of over-65s increased from 18.6 per cent in 2016 to 66.1 per cent in 2017. The Government also states that the informal economy shrank from 52.4 per cent in 2003 to 42.87 per cent in the second half of 2017. However, the Committee notes that the workers' confederations UNETE, the CTV, the CGT, CODESA and the CTASI refer to the results of the ENCOVI for 2017, according to which 58.5 per cent of the population were economically active and 41.5 per cent were inactive. They assert that the open unemployment rate increased from 7.4 per cent in 2016 to 9 per cent in 2017. Furthermore, UNETE, the CTV, the CGT and CODESA indicate that income poverty increased from 81.8 per cent in 2016 to 87 per cent in 2017, while extreme poverty increased from 51.5 per cent to 61.2 per cent. They emphasize that there is continuing evidence of profound regional inequality, given that multidimensional poverty affects 34 per cent of households in Caracas (where less than 20 per cent of the population live) but in the least populated zones (which account for 25 per cent of the total population) the poverty rate is more than double, affecting 74 per cent. The workers' confederations allege that the statistical information provided by the Government does not show the genuine figures. The IOE and FEDECAMARAS regret that official labour force statistics, previously published by the National Institute of Statistics (INE), have not been published since April 2016 and there are no accountability mechanisms that provide information on the most relevant variables regarding the labour force. ***The Committee requests the Government to continue to provide detailed information, including updated statistics disaggregated by age and sex, on the labour market situation and trends in the country. The Committee also requests the Government to continue providing information on the impact of the measures taken to give effect to the Convention.***

Transitional labour regime. In its previous comments, the Committee requested the Government to indicate the current situation with regard to the application of Resolution No. 9855, which establishes a transitional labour regime that

is compulsory and strategic for the revival of the agro-food sector, and which provides for workers in public and private enterprises to be placed in other enterprises in the sector (requesting enterprises) that are separate from the enterprise that generated the original employment relationship. The Committee notes the Government's indication that the abovementioned Resolution was issued in the context of the Decree under which the State of Exception and Economic Emergency was declared and in conformity with the provisions of article 305 of the Constitution of the Bolivarian Republic of Venezuela, which provides that the State shall guarantee food sovereignty. The Government also indicates that the Resolution was not implemented while it was in force and, as a result, no worker transfers were conducted as a result of its application. The Government adds that the Resolution was in force for 180 days and no new resolution was issued for its renewal. The Government concludes that, consequently, Resolution No. 9855 has been repealed, as it has had no legal force since January 2017 when it was not renewed. ***The Committee notes the information provided by the Government in response to its previous request on the status of Resolution No. 9855.***

Youth employment. The Committee notes the Government's statement, in response to its previous comments, that the number of young persons aged between 15 and 24 years in employment increased from 565,727 in 2016 to 670,974 in 2017. The Government indicates that, through the 32 offices of the Meeting Centres for Education and Employment (CEET), a policy has been developed to guarantee the comprehensive inclusion of young persons in the social process of work, taking into account their skills and potential. In 2017, a total of 6,479 young persons were registered with the CEET (57 per cent of whom were men and 43 per cent were women), and subsequently incorporated into the supply chains with the greatest labour needs. The Government reports that 63 per cent of the young persons registered with the CEET are in employment, 31 per cent are unemployed and 6 per cent are seeking work for the first time. The Committee also notes the Government's reference to, inter alia, the Programme for Comprehensive Assistance, which targets vulnerable people, including: persons with disabilities; young persons between the ages of 18 and 30 years; and university students completing internships, apprenticeships, community service and/or research projects, who are voluntarily involved in the initiation process for work in different areas of employment that are prioritized for strategic reasons. The Government highlights the transformation of the Youth Employment Plan into the Major Youth Employment Mission under Decree No. 3.485 of 22 June 2018, published in *Official Gazette* No. 41.429 of 28 June 2018. This new Major Mission targets young people between 15 and 35 years of age, with a view to integrating them into productive work in areas associated with meeting human needs, identified through the *Carnet de la Patria* identity card system, within the framework of the *Somos Venezuela* (we are Venezuela) movement. In particular, the Major Youth Employment Mission focuses on unemployed graduates, persons without education, persons with family responsibilities, single mothers and socially vulnerable persons. The Government indicates that, one year after it was established, 1.1 million young persons were enrolled in the Mission, 11,647 socio-productive projects benefiting more than 33,000 young people had been approved, and 2,206 young workers had joined public and private enterprises. The Mission's strategic directions include the promotion and strengthening of a new culture for the social process of work, the "return to the fields" (agricultural and agro-urban production), the promotion of a culture of productive entrepreneurship, and the integration of youth programmes. However, the Committee observes that the Government has still not provided an evaluation, conducted with the participation of the social partners, of the active employment policy measures implemented to reduce youth unemployment and promote their sustainable integration into the labour market, particularly for the most underprivileged categories of young persons. ***Consequently, the Committee once again requests the Government, with the participation of the social partners, to provide an evaluation of the active employment policy measures implemented to reduce youth unemployment and promote their sustainable integration into the labour market, particularly for the most underprivileged categories of young persons. The Committee also requests the Government to continue providing detailed statistical data, disaggregated by age and sex, on youth employment trends.***

Development of small and medium-sized enterprises (SMEs). In its previous comments, the Committee requested the Government to provide information on the impact of the measures adopted to promote the creation and productivity of small and medium-sized enterprises, and to develop a climate conducive to generating employment in such enterprises. The Committee observes that the Government has not provided information in this respect. The Committee notes that, in their observations, the IOE and FEDECAMARAS assert that, according to INE figures, 40 per cent of the country's enterprises disappeared between 1998 and 2006. ***The Committee once again requests the Government to provide information on the measures taken to encourage the creation of SMEs and promote their productivity, and to create a climate conducive to generating employment in such enterprises.***

Article 3. Participation of the social partners. In its previous comments, the Committee reiterated its request to the Government to provide information that included specific examples of how account had been taken of the views of employers' and workers' organizations in the formulation and implementation of employment policies and programmes. The Committee also once again requested the Government to provide detailed information on the activities of the National Council for the Productive Economy (CNEP) related to the issues covered by the Convention. The Committee notes that the Government has not provided information in this regard in its report. The Committee also notes that, in their observations, the IOE and FEDECAMARAS allege that the Government is not holding consultations or cooperating with the social partners for the formulation of a policy to encourage employment, in conformity with the terms of *Article 3* of the Convention. ***The Committee therefore once again requests the Government to send information that includes specific examples of how account has been taken of the views of employers' and workers' organizations in the formulation and implementation of employment policies and programmes and the outcomes of those consultations.***

The Committee also once again requests the Government to supply detailed information on the activities of the National Council for the Productive Economy (CNEP) related to the matters covered by the Convention.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 88** (Belize, Guinea-Bissau, Madagascar, Malta, Mongolia); **Convention No. 122** (Antigua and Barbuda, Austria, Azerbaijan, Barbados, Plurinational State of Bolivia, Bulgaria, Burkina Faso, Canada, Central African Republic, China: Hong Kong Special Administrative Region, China: Macau Special Administrative Region, Costa Rica, Ecuador, Estonia, Finland, France, France: French Polynesia, Kyrgyzstan, Lebanon, Netherlands: Aruba, Panama, Papua New Guinea, Peru, Romania, Rwanda, Saint Vincent and the Grenadines, Suriname, Tajikistan, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, United Kingdom: Guernsey, Viet Nam, Yemen); **Convention No. 159** (Belgium, Côte d'Ivoire, Egypt, Kyrgyzstan, Madagascar, Malawi, Peru, San Marino, Turkey); **Convention No. 181** (Albania, France, France: New Caledonia, Mongolia, Niger, Serbia).

Vocational guidance and training

Guinea

Human Resources Development Convention, 1975 (No. 142) (ratification: 1978)

Article 1 of the Convention. Formulation and implementation of education and training policies. In response to the Committee's previous comments, the Government indicates that the Ministry of Technical Education, Vocational Training, Employment and Labour has envisaged measures with a view to improving the initial training of teachers. These measures include raising the entry requirements for the teaching profession to the single baccalaureate and granting an incentive bonus of 150,000 Guinean francs (GNF) per month to student teachers during their two years of training in order to attract the best candidates. The Government also reports that a liberalization of private initiatives has facilitated the growth of private schools, which employ a large number of graduates from teacher training colleges. In this context, the Government indicates that a state mechanism has been established for the supervision, inspection and coordination of these private schools at the national and local levels. The Government indicates that, in order to strengthen links between training and employment, a strategy to link the graduates' final examination to the recruitment competition for the public service is being formulated by an inter-ministerial committee comprising representatives of the public service, finance, budget, national education, literacy and technical education. A strategy targeting the training of young persons is envisaged by the Government through the "Boosting skills for the employability of young persons" (BOCEJ) project, within which vocational and technical training and higher education institutions work with the private sector to prepare training projects via a public-private partnership (PPP) with a view to improving the employability of young graduates. In the context of enhancing the status of the teaching profession, the Committee notes the signature of joint order No. 2018/1629/MESRS/METFPET/SGG of 21 March 2018, issuing Bachelor's diplomas to graduates of "B" training institutes. The Government adds that, to address the lack of teachers, it has initiated a training programme for 2,000 teachers a year with the support of the World Bank. In this regard, two main innovative training strategies have been implemented: emergency training comprising three months of classroom training and nine months of practical training, followed by three further months of classroom training; and regular training comprising nine months of classroom training and nine months of practical training. The Committee notes that, according to the 2015–17 education sector programme, the Government has implemented several measures to combat the gender inequalities suffered by young women. *The Committee therefore requests the Government to indicate the measures taken to eliminate gender inequality between young women and men, and their results. The Committee requests the Government to provide statistical data, disaggregated by age and sex, on the impact of the measures implemented within the framework of the above training strategies and programmes, and a copy of the order of 21 March 2018. The Committee refers to its comments on the Employment Policy Convention, 1964 (No. 122), and reiterates its request to the Government to provide detailed information on the manner in which it ensures effective coordination between vocational guidance and training policies and programmes and employment policies and programmes and on the manner in which it facilitates lifelong learning, as envisaged in Paragraph 3(a) of the Human Resources Development Recommendation, 2004 (No. 195). The Committee also requests the Government to indicate the impact of these policies on the creation of decent jobs and poverty eradication in accordance with Paragraph 16 of the Recommendation. Lastly, the Committee requests the Government to continue to provide information on the consultation and coordination measures between the various competent bodies to develop comprehensive and collaborative policies and programmes for vocational guidance and training.*

Article 5. Cooperation with the social partners. The Government indicates that the social partners, students' parents, local politicians, the community and non-governmental organizations were heavily involved in the implementation of the training project for 2,000 teachers a year. It adds that it decided, in cooperation with the social partners, that it was necessary to review the project, which was implemented from 2011 to 2012. In this context, the Government and the social partners implemented a new training model through the education sector programme with the institutional support of CEPEC-Lyon International. The Government indicates that the social partners are also involved in the implementation of this model, which is currently in force in teacher training colleges, as part of the practical training of the student teachers. *The Committee requests the Government to continue to provide detailed information on the participation of the social partners and other concerned parties in the formulation and implementation of vocational guidance and training policies and programmes. The Committee also requests the Government to describe any consultation procedures or mechanisms established in this regard.*

Guyana

Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1983)

Articles 2 and 6 of the Convention. Formulation and application of a policy designed to promote the granting of paid educational leave. The Committee recalls that, for many years, it has been requesting the Government to provide information on the measures taken to give effect to the Convention. In its report, the Government provides summaries of

court decisions relevant to the granting of paid educational leave in the public service sector. The Government indicates that training in the private sector is undertaken on the basis of a company's needs, such as succession planning, human resource needs and upgrading of technology, whereas training is implemented through scholarships in the public sector. Training is provided on the basis of the projected labour needs of the Government and training opportunities are advertised within the various Ministries and agencies as well as in national newspapers. The Committee once again recalls that the Convention requires the Government to formulate and apply a policy designed to promote, by methods appropriate to national conditions and practice and by stages as necessary, the granting of paid educational leave for the purpose of occupational training at any level, general, social and civil education and trade union education (*Article 2*) in consultation with the social partners (*Article 6*). ***Noting that the information provided in the Government's report does not indicate the manner in which Article 2 of the Convention is given effect, the Committee requests the Government to indicate the content and scope of the policy to promote the granting of paid educational leave for the purposes specified in Article 2 of the Convention and to communicate the texts, including government statements, declarations and other documents, in which the policy is expressed. In addition, the Committee once again reiterates its request that the Government provide full particulars on the measures taken or envisaged in order to give effect to these provisions of the Convention.***

Articles 5 and 6. Arrangements for paid educational leave through collective agreements. Consultation with the social partners. The Committee notes the Government's indication that the National Tripartite Committee established in 1993 has constituted a subcommittee to deal with training and placement issues. It adds that there is no information available on the manner in which the public authorities, representative employers' and workers' organizations and institutions providing education or training have been consulted on the formulation and application of the national policy to promote the granting of paid educational leave for the purposes specified in the Convention. The Government states that the social partners make provision for some measure of paid educational leave in the private sector through the bargaining process. ***The Committee requests the Government to provide information on the arrangements to enable the participation of employers' and workers' organizations and institutions providing education or training in the formulation and application of the national policy for the promotion of paid educational leave for the purposes specified in Article 2 of the Convention.***

Article 8. Non-discrimination. The Government indicates that training under *Article 2(a)* includes training for apprentices and groups in vulnerable situations. In this regard, the Committee notes that the Industrial Training Act, Chapter 39:01, referenced in the Government's report, regulates apprenticeships, but that section 3(1) of the Act refers only to male apprentices (*boys*). The Government does not provide information regarding training for groups in vulnerable situations. ***The Committee requests the Government to provide information, including statistical data disaggregated by sex, on the apprenticeship training opportunities available to boys and girls. Noting that section 3(1) of the Industrial Training Act could be interpreted to exclude girls, it also invites the Government to consider amending the Act to extend apprenticeships to both male and female apprentices. It also requests the Government to provide particulars regarding the measures taken to ensure that groups in vulnerable situations have access to paid educational leave.***

Application of the Convention. Part V of the report form. ***The Committee requests the Government to provide a general appreciation of the manner in which the Convention is applied, including, for instance, extracts from reports, studies and enquiries, and statistics disaggregated by sex and age on the number of workers granted paid educational leave during the reporting period.***

Republic of Moldova

Human Resources Development Convention, 1975 (No. 142) (ratification: 2001)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Article 1(1) and (2) of the Convention. Formulation and implementation of education and training policies and programmes. The Committee notes the Government's report received in October 2013 which includes detailed and comprehensive information in response to its 2009 direct request. The National Development Strategy "Moldova 2020" was approved in 2012 and comprises among its development priorities the education system's alignment with labour market needs, in order to enhance labour productivity and increase employment. The Government indicates that, since 2010, a module on personal development and careers as well as a module on labour law have been included in the modernized curriculum of civic education. In general, educational institutions extra-curricular activities, such as vocational guidance, meetings with labour law specialists and economic agents, are being offered. Furthermore, in gymnasiums, students are offered a number of optional courses, including ethics in business, customer protection, entrepreneurial training, and education for gender equality and equal opportunities. The Committee notes that, in 2013, 17 vocational technical institutions offering the possibility of involvement in 49 professions and occupations were contracted for the purposes of training the unemployed. Moreover, the National Employment Agency (NEA) carries out an annual study "Labour Market Forecast/Prognosis" in order to achieve effective occupational training programmes in connection with labour market requirements. The NEA's 35 territorial structures take into account the relevant labour market prognosis when carrying out their services (namely vocational guidance and orientation, as well as occupational training for the unemployed). ***The Committee welcomes the information received and invites the Government to continue providing further information on the design and implementation of education and training policies and programmes, closely linked with employment needs.***

Article 4. Vocational training and lifelong learning. The Government indicates that, in accordance with the National Development Strategy, the policy in the field of education will be orientated towards ensuring its quality. The training of a skilled labour force will be ensured by promoting career guidance and providing lifelong occupational training opportunities. The Committee notes with **interest** that the Development Strategy of Vocational/Technical Education (2013–20) was adopted in February 2013, together with its action plan. The Government indicates that the overall objective of the Development Strategy is to modernize and streamline vocational and technical education, in order to increase the competitiveness of the national economy; the specific objective No. 2 provides for vocational training based on skills and its adjustment to labour market requirements. **The Committee invites the Government to provide up-to-date information on the implementation of the Development Strategy of Vocational/Technical Education (2013–20). It also invites the Government to supply information in respect of any lifelong learning measures adopted.**

Article 5. Cooperation with social partners. The Committee notes that the National Council for Occupational Standards and Certification of Professional Skills is the platform for social dialogue since June 2008. The Council helps to ensure synergy between vocational and technical education, the labour market, and the national economy. **The Committee invites the Government to provide further information on the steps taken, in the framework of the National Council, to involve the social partners in the formulation and implementation of vocational guidance and vocational training policies and programmes.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Poland

Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1979)

The Committee notes the observations of the Independent and Self-Governing Trade Union “Solidarność”, received on 31 August 2018, together with the Government’s report, as well as the Government’s reply to these observations, received on 22 October 2018.

Articles 2–5 of the Convention. Granting paid educational leave. The Committee notes that, according to the information provided in the Government’s report, the Labour Code governs the issue of the right to paid educational leave for employees seeking to improve their professional qualifications. In its observations, Solidarność indicates that the use of such leave is conditional on the employer’s initiative or consent. The Committee notes once again that general, social or civic education and trade-union-related education is not addressed under the Labour Code. The Government indicates that education in these areas is regulated by special acts. Solidarność observes that, according to section 103 of the Labour Code, an employee aiming to increase his or her qualifications in areas other than professional will be granted leave, but will not be entitled to remuneration. Solidarność adds that there is no regulation in the Labour Code that would recognize training time as working time, with the exception of the time spent by an employee to participate in occupational safety and health (OSH) training, which is treated as working time. In its response to the observations of Solidarność, the Government refers to the position of the National Labour Inspectorate, that an employee’s participation in training held to increase professional qualifications or develop specific skills needed in a given workplace is considered as working time when participation in the training is compulsory. The Committee notes that, in respect of paid leave for trade union education, according to section 31(3) of the Act on trade unions, the right to paid leave is granted to employees holding trade union functions and not to all employees, and only in relation to the performance of ad hoc activities arising from their trade union functions. According to the Government, this is in line with *Article 10* of the Convention which provides for the ability to introduce different requirements for employees, depending on the type of training undertaken. Solidarność observes that this provision does not extend to those employees who do not perform any union function. It adds that participation in union-related training, which by its nature is organized and announced in advance, does not meet the ad hoc criterion. Thus, Solidarność observes that neither the Labour Code nor the Act on trade unions contains provisions on the granting of paid educational leave to enable workers to participate in trade union education. With respect to the issue of eligibility, the Committee notes that *paragraph 17* of the Paid Educational Leave Recommendation, 1974 (No. 148), provides that, in determining eligibility for paid educational leave, account should be taken of the types of education or training programmes available and of the needs of workers and their organizations and of undertakings, as well as of the public interest. The Committee nevertheless notes that, while eligibility conditions may vary, the Convention does not contemplate limiting paid educational leave to only ad hoc trade union activities. The Committee notes the establishment of the National Training Fund (NTF) in 2015, to support investments in human resources, which is favourably assessed by Solidarność. In its response to the observations, the Government highlights that, since the NTF is a fund for employed persons, regulations on leave taken for training purposes are an important part of the rules governing the functioning of the NTF. The Committee recalls that the Government, in its previous report, indicated that, aiming to increase the role of the social partners in the management of labour fund resources and programming and monitoring of labour market policy, it planned to establish labour market boards that will be created in place of employment boards. The Government does not, however, provide information on whether the labour market boards were in fact established. **The Committee requests the Government to provide information on the manner in which the right to paid educational leave for general, social, civic or trade union education is ensured in practice (Article 2 of the Convention). It also reiterates its request that the Government include documentation, such as reports, studies and statistics that would permit an appreciation of the application of the Convention in practice (Part V of the report form). It requests the Government to continue to provide information on the manner in which employers’ and workers’ organizations are involved in the formulation and application of the policy for the promotion of paid educational leave and to provide specific information on the establishment of the labour market boards (Article 6).**

Human Resources Development Convention, 1975 (No. 142) ***(ratification: 1979)***

The Committee notes the observations of the Independent and Self-Governing Trade Union “Solidarność” received on 9 August 2018, as well as the Government’s reply to these observations, received on 22 October 2018.

Articles 1–4 of the Convention. Formulation and implementation of policies and programmes of vocational guidance and vocational training. The Committee notes the information provided in the Government’s report in response to its 2013 observation. The Committee notes the Government’s continued efforts to improve the quality and effectiveness of vocational guidance and training. The Government refers to a series of amendments made to the 2004 Act on employment promotion and labour market institutions (the Act), from 2013 to 2017, particularly the revision of 14 March 2014, which entered into force on 27 May 2014, introducing changes in the area of vocational guidance aimed at better adapting the services offered by labour offices to the needs of their clients, thereby improving the efficiency of Public Employment Service (PES) operations. According to the Government, vocational guidance and information services and job search assistance services, were rolled into a single vocational guidance service. A certain number of PES staff were transferred to positions as vocational counsellors and provided with training to enhance their skills, thereby increasing the number of counsellors and the availability of vocational guidance services. The Committee notes that 48,806 unemployed persons benefited from the individual and group vocational guidance provided by PES labour offices in 2017, a decline from 74,016 unemployed persons in 2013. The Government attributes this decline to the corresponding decline in the Polish unemployment rate during this period. The Committee also notes the introduction of two new forms of vocational guidance aimed at addressing the needs of PES customers due to the rapid development of information technologies: distance guidance and distance information services. In its observations, Solidarność maintains that there is no broad access to vocational counselling offered by the PES, which mainly focuses on registered unemployed persons. In its reply, the Government reports that both unemployed persons and jobseekers, with different levels of education and professional qualifications, in different stages of their professional development, have the opportunity to use the free career counselling services provided by the PES. It further indicates that district employment offices provide individual or group advice, professional information and training in the area of job search skills to registered unemployed persons, as well as support in the field of professional information to those who are not registered. In relation to vocational education, the Government reports that the 14 March 2014 revisions to the 2004 Act, expanded the assistance provided for long-term unemployed persons – young persons under the age of 30 and older workers 50 or older – to help them enter and remain in the labour market. The Committee notes that employers hiring young people are now provided support through new instruments: training vouchers and placement vouchers. Under the placement voucher system, the unemployed person is granted a six-month internship with a designated employer, who commits to employ the individual for an additional six months. The Government indicates that since 2015, internships are available not only for young persons, but also for all groups of unemployed persons in a difficult situation on the labour market. Solidarność nevertheless indicates that the Government has not developed a coherent youth policy that takes into account the special needs of young people on the labour market or that provides them with support at various stages of their professional career. In its reply, the Government reports that support for young people is provided by the Voluntary Labour Corps – units supervised by the Minister for Labour and specialized in activities for youth aged 15–25, particularly those at risk of social exclusion. The Government also reports the establishment of the National Training Fund (NTF) in 2015 to support investments in human resources. In this respect, it notes that the amount of the annual funds available from the NTF is approximately 200 million Polish zloty (PLN), which is intended to support co-financing of lifelong learning for employees and employers undertaken at the initiative of, or with the consent of, the employer. The Committee notes that, during the 2014–17 period, the PES used these funds to support training for approximately 315,000 working people. In addition, the Government refers to a series of activities in the area of lifelong learning. The Committee notes, with *interest*, that, in 2017, more than 80 per cent of unemployed persons secured employment after completing the internship program, the highest ratio in five years. Solidarność nonetheless maintains that the PES does not promote vocational training for adults. Noting that, in 2016, only 242 people took up adult vocational training, Solidarność attributes this to the low remuneration offered to a person undergoing adult vocational training, as well as to the heavy administrative burdens. It adds that access to measures for training to improve professional qualifications was curtailed after the NTF resources for 2018 were reduced. In its reply, the Government indicates that, in 2017, over 50,000 people took part in training, which is extremely popular among both the unemployed and jobseekers. The Government also reports that, in 2018, the amount of PLN105,608 (US\$28,086,100) was allocated to the NTF and the role of the social partners in deciding on the allocation of NTF funds was strengthened, as the tripartite Labour Market Council decides on the spending priorities for 30 per cent of NTF funds. The Committee takes note of activities intended to support students in undertaking educational and career decisions carried out by the Ministry of National Education and the introduction in 2016 of classes in vocational guidance. It further notes that a Bill amending the Act – Education Law and the Act on the education system and certain other acts, which proposes further changes to the vocational education system, is being reviewed at the interdepartmental level and the social partners are being consulted. It is expected to be finalized in September 2019. ***The Committee requests the Government to continue to provide detailed information, including updated statistical data disaggregated by age and sex, on the impact of the measures taken to develop comprehensive and coordinated policies and programmes in relation to vocational guidance, education and training and lifelong learning linked with the PES. It further requests the Government to provide information on the results of measures taken to assist disadvantaged persons in accessing***

vocational education and training services adapted to their needs, including young persons, older workers, the long-term unemployed and persons with disabilities. Noting the reduction of NTF resources for 2018, the Committee requests the Government to provide information on the reasons for this reduction, as well as information on the availability of other resources to support education and training to enable individuals to improve their professional qualifications. It also requests the Government to provide a copy of the Bill amending the Act – Education Law and the Act on the education system and certain other acts, once it has been adopted.

Article 5. Cooperation with employers' and workers' organizations. The Government reports that it undertook a series of activities aimed at enhancing cooperation with Polish employers in formulating and implementing vocational education and training policies and programmes. In this regard, the Committee notes the establishment on 20 January 2015 of a tripartite consultative team responsible for vocational education issues. The Government indicates that the work of the team led to the introduction of a regulation issued by the Minister of National Education on 11 August 2015, which provides for the organization of practical classes at employers' workplaces that are tailored to the employers' needs. The Government adds that, to promote coordination and coherence in the provision of vocational education and training, the Ministry of National Education took measures to secure the engagement of representatives of employers' organizations, local government and professional associations. The Committee notes that, following consultations with employers, the educational system was restructured in September 2017 to provide for the inclusion of a three-year industrial I-tier school providing technical education. In addition, employers' representatives identified vocational qualification needs on the labour market, resulting in the development of new training curricula in 60 professions, including in five auxiliary professions for students with mental disabilities. The Committee welcomes the new training curricula which were introduced in vocational schools in September 2017. In its observations, Solidarność alleges that the social partners are not actively included in the process of developing educational and labour market policies, and have no voice with regard to the manner in which Labour Fund resources are spent. Moreover, Solidarność maintains that it was not afforded the opportunity to be substantially involved in the process of drafting the new Labour Market Act. The Government, in its reply, indicates that the draft of the new Act was sent for discussion to the Social Dialogue Council and the Labour Market Council, and that it provided the required thirty-day period for review of the draft. *Noting the efforts of the Government to enhance cooperation with employers in formulating and implementing vocational education and training policies, the Committee requests the Government to provide updated information on the manner in which the representative organizations of both employers and workers, as well as relevant institutions, have been consulted in the formulation, implementation and monitoring of vocational training and vocational guidance policies and programmes.*

Bolivarian Republic of Venezuela

Paid Educational Leave Convention, 1974 (No. 140) (ratification: 1983)

The Committee notes the observations made by the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 26 September 2018. *The Committee requests the Government to provide its comments in this respect.*

Articles 2 to 6 of the Convention. Development and application of a policy to promote the granting of paid educational leave. Participation of the social partners. In its previous comments, the Committee requested the Government to indicate cases in which the Basic Labour Act on men and women workers (LOTTT) provides for the granting of paid educational leave, within the meaning of the Convention. In its report, the Government refers to section 316 of the LOTTT, which provides that “men and women employers may grant leave to men and women workers who are engaged in studies”. The Government adds that, under the national legislation the employer is not under an obligation to grant paid educational leave. However, in accordance with the provisions of sections 298 and 300 of the LOTTT, employers are required to hire apprentices and admit interns when so requested by educational institutions. Likewise, the objectives set by the National Executive for the technical and educational training of men and women workers could require employers to provide the necessary space and personnel for the development of training plans for their men and women workers, without this involving the interruption of their productive work. In this regard, the Committee recalls “the essential requirement that educational or training activities should take place during working hours. The time devoted to these activities must be included in working hours if there is to be genuine educational leave [...]” (see the 1991 General Survey on human resources development, paragraph 349). The Government indicates that paid educational leave is guaranteed when collective agreements are concluded, which sometimes include the right to such leave. In such cases, the worker and the employer decide how the educational leave will be taken in such a way that it has the least possible impact on working time, for which purpose it could be agreed to change the worker's hours and the manner determined in which the worker must make up the hours to achieve the work goals. However, the Committee notes that UNETE, CTV, CGT and CODESA indicate that, as a result of the abolition of the different wage scales and the establishment of a single wage in September 2018, regardless of occupation, educational status or length of service, all collective agreements previously concluded were de facto abolished, thus eliminating the benefits and incentives set out in those agreements for accessing comprehensive, continuing and lifelong education, including paid educational leave. The trade unions observe that these actions have removed workers' opportunities for development or advancement in the country. The Committee observes that the Government does not provide information in its report on the policies or measures adopted with a view

to promoting the granting of paid educational leave for the specific purposes set out in *Article 2*. In that respect, the Committee recalls that the Convention requires the formulation and application of “a policy designed to promote, by methods appropriate to national conditions and practice and by stages as necessary, the granting of paid educational leave” (*Article 2*) with the participation of the social partners (*Article 6*). ***The Committee requests the Government to provide information on the formulation and application of policies and measures to promote the granting of paid educational leave for vocational development at any level, and for trade union education (Articles 2 and 5), and to provide the relevant texts. The Committee also requests the Government to indicate the manner in which paid educational leave is granted, and particularly: (a) the conditions that workers must fulfil to benefit from such leave; (b) the duration of the leave; and (c) the level of the financial benefits paid (Article 3). The Committee also requests the Government to provide updated statistics, disaggregated by sex, showing the number of workers granted paid educational leave (Part V of the report form).***

Human Resources Development Convention, 1975 (No. 142) (ratification: 1984)

The Committee notes the observations made by the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 26 September 2018. ***The Committee requests the Government to provide its comments in this respect.***

Articles 1–5 of the Convention. Implementation of policies and programmes of vocational guidance and training. Cooperation with the social partners. In response to the Committee’s previous comments, the Government reports the establishment in 2014 of the Office of the Deputy Minister for Education and Work for Freedom, under the auspices of the People’s Ministry for the Social Process of Labour, of which the main function is to propose objectives, policies, plans and strategies for the collective, comprehensive, continued and permanent training and self-training of workers, to be implemented by the different educational missions and universities. The Government adds that the Office has a presence in the different regions through 32 offices, known as education and work drop-in centres (CEET), which implement training programmes with a view to ensuring the inclusion of young people in the social process of work for the purposes of, inter alia, improving their educational conditions and opportunities. In this regard, the Government refers to the establishment in 2018 of the Major Youth Employment Mission, targeting nationals or foreign nationals with ten years of residence in the country, between the ages of 15 and 35 years. Its main objectives include the training of young people in farming and various areas of “cryptoeconomics” and the promotion of a culture of entrepreneurship among young people. The Government indicates that the Major Mission consists of five wide-ranging elements, which include the design and implementation of a training plan in strategic areas to meet food, production and healthcare needs in the country. The Committee also notes the information provided by the Government on the programmes developed by the National Institute for Socialist Education and Training (INCES), such as the national programme for the training of apprentices, in the framework of which enterprises with 15 or more workers are required to employ and train apprentices between the ages of 14 and 18 years. The Government adds that the development of a strategic plan for productive training is envisaged, which will be implemented by the INCES. The Committee notes the indication of the workers’ organizations UNETE, CTV, CGT and CODESA that the absence of food security, interruptions in the water, electricity and gas supply in homes and transport issues have had a negative effect on the performance of the school-age population and their regular school attendance. The trade unions indicate that, currently, 38 per cent – four out of ten – of children and young persons between the ages of 3 and 17 years have ceased to attend school for various reasons, including transport issues, power cuts or a lack of food. With respect to young people between the ages of 18 and 24 years, the trade unions observe that 48 per cent – almost half – are not in education. They also emphasize that workers’ reduced buying power limits their and their children’s opportunities to access vocational education and training, and the public education sector is also experiencing staffing issues owing to the emigration of teachers to other countries in search of better living conditions as a result of the situation in the country. Lastly, the Committee observes that the Government has not provided information on the manner in which, in accordance with *Article 5* of the Convention, cooperation is ensured with the social partners and representatives of the private sector in the development and implementation of vocational training and guidance programmes and policies to achieve the objectives of the Convention. ***Observing that the information provided by the Government only refers to young persons, the Committee requests the Government to supply detailed information on the measures taken or envisaged with a view to guaranteeing access to vocational training and guidance for men and women workers, particularly vulnerable groups of workers, such as women, persons with disabilities, indigenous or tribal peoples and persons in rural areas or remote communities. The Committee also requests the Government to indicate how it is guaranteed that workers have the freedom to choose the vocational guidance and training programmes in which they wish to participate, in conformity with Article 1(5) of the Convention. The Committee also requests the Government to continue to provide updated information, including statistics disaggregated by age and sex, on the impact of the policies and programmes implemented in relation to vocational guidance and training. Furthermore, the Committee once again requests the Government to provide specific and detailed information on the manner in which the social partners and representatives of the private sector have been consulted in relation to the formulation, implementation and monitoring of vocational guidance and training policies and programmes (Article 5).***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 140** (*Afghanistan, Belize, Bosnia and Herzegovina, Chile, Finland, Guinea, Hungary, Iraq, Kenya, Montenegro, Netherlands: Aruba, Nicaragua, San Marino, Slovakia, Sweden, United Republic of Tanzania, The former Yugoslav Republic of Macedonia, United Kingdom: Anguilla, United Kingdom: Jersey*); **Convention No. 142** (*Afghanistan, Antigua and Barbuda, Argentina, Burkina Faso, Central African Republic, Cuba, Denmark, France: French Polynesia, Georgia, Hungary, Iraq, Kenya, Kyrgyzstan, Latvia, Lebanon, Mexico, Netherlands: Aruba, Nicaragua, Niger, Switzerland, Tajikistan, United Republic of Tanzania, The former Yugoslav Republic of Macedonia, Tunisia*).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 142** (*Italy*).

Employment security

Democratic Republic of the Congo

Termination of Employment Convention, 1982 (No. 158) (ratification: 1987)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Observations by the Labour Confederation of Congo (CCT). Abusive dismissals. The CCT expresses concern at a collective labour dispute which involved the massive, abusive and unlawful dismissal of around 40 employees of a private multinational enterprise governed by French law, in which the public authorities are reported to have let the situation deteriorate, disregarding the provisions of the Convention. The CCT also refers in this context to the wilful violation by the employer of the OECD Guidelines for Multinational Enterprises, and particularly those on employment and industrial relations. The Committee notes that the CCT called on the authorities to ensure the reinstatement of workers subjected to abusive and unlawful dismissal and the application of the provisions of the Convention respecting severance allowances and collective dismissals. **The Committee invites the Government to provide its own comments on the observations of the CCT. It hopes that the Government will be in a position to indicate whether the dismissals referred to were based on valid reasons (Article 4 of the Convention) and whether the dismissed workers were entitled to severance allowances (Article 12). It also requests the Government to provide information on the measures adopted to mitigate the effects of the dismissals, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).** It recalls that the ILO can provide assistance to promote the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

In reply to the previous comments, the Government has provided the relevant provisions of Act No. 13/005 of 15 January 2013 issuing the conditions of service of military members of the armed forces of the Democratic Republic of the Congo (*Article 2(4) of the Convention*). **The Committee once again invites the Government to provide a report containing information on the practice of the labour inspectorate and the decision of the courts on matters of principle relating to the application of Articles 4, 5 and 7 of the Convention. Please indicate the number of appeals against termination, their outcome, the nature of the remedy awarded and the average time taken for an appeal to be decided (Parts IV and V of the report form).**

Article 7. Procedure prior to, or at the time of, termination. The Government has provided the text of the national interoccupational collective agreement of December 2005, which does not appear to envisage the possibility of a specific procedure to be followed prior to, or at the time of, termination, as required by the Convention. **The Committee once again invites the Government to provide copies of collective agreements which have provided for this possibility and to indicate in its next report the manner in which this provision of the Convention is given effect for workers not covered by collective agreements.**

Article 12. Severance allowance and other income protection. The Government indicates in its report that section 63 of the Labour Code of 2002 protects employment and recommends reinstatement in the event of the abusive termination of the employment contract. In the absence of reinstatement, damages are set by the labour tribunal. The Committee emphasizes that this method of compensating unjustified termination, namely through the granting of damages by the court, is covered more by *Article 10* of the Convention, which envisages the payment of adequate compensation or such other relief as may be deemed appropriate. The severance allowance, which is one form of income protection, needs to be distinguished from damages paid in the event of unjustified termination. Under the terms of *Article 12* of the Convention, a worker whose employment has been terminated shall be entitled, in accordance with national law and practice, to either a severance allowance or other separation benefits; or to benefits from unemployment insurance or assistance or other forms of social security; or a combination of such allowance and benefits. The Committee recalls its previous comments and notes that the Labour Code does not specify the severance allowance which is to be paid to workers, in accordance with *Article 12* of the Convention. **The Committee once again invites the Government to indicate the manner in which effect is given to Article 12 of the Convention.**

Articles 13 and 14. Terminations for economic or similar reasons. The Government indicates that the Ministry of Employment, Labour and Social Welfare signed 15 orders authorizing collective terminations for economic or similar reasons, covering 701 workers in 2012–13. **The Committee invites the Government to indicate whether the dismissed workers were entitled to severance allowances (Article 12). It hopes that the Government will also be in a position to provide information on the measures taken to mitigate the effects of these terminations, as envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Papua New Guinea

Termination of Employment Convention, 1982 (No. 158) (ratification: 2000)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Article 1 of the Convention. For a number of years, the Committee has requested information concerning the ongoing revision of the Industrial Relations Bill which, according to the Government's 2013 report, includes provisions on termination of employment with the objective of giving effect to the Convention. In its reply to the Committee's previous comments, the Government indicates that the draft Industrial Relations Bill is still pending with the Department of Labour and Industrial Relations and is undergoing final technical consultations. The Government adds that the Department of Labour and Industrial Relations Technical Working Committee has carried out various consultations with national stakeholders, such as the Department Attorney General's Office, the Office of the Solicitor General, the Constitution Law Reform Commission, the Department of Personnel Management, the Department of Treasury and the Department of Planning, Trade Commerce and Industry, as well as with external technical partners, including the ILO. **Referring to its previous comments, the Committee once again expresses the hope that the Government will take the necessary measures to ensure that the new legislation gives full effect to the provisions**

of the Convention. It also reiterates its request that the Government provide a detailed report to the ILO and a copy of the legislation as soon as it is enacted, so as to enable the Committee to examine its compliance with the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 158** (*Malawi, Saint Lucia, Yemen*).

Wages

Belarus

Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)

Article 4 of the Convention. Partial payment of wages in kind. In its previous comments, the Committee requested the Government to take measures to ensure that the payment of wages in kind could only be partial, in conformity with *Article 4*. The Committee notes that the Government confirms in its report that under section 74 of the Labour Code, payment of wages in the form of allowances in kind is possible in part or in full. **The Committee therefore requests the Government to take the necessary measures, including by revising section 74 of the Labour Code, to ensure that the payment of wages in kind could only be partial, in conformity with Article 4.**

Plurinational State of Bolivia

Protection of Wages Convention, 1949 (No. 95) (ratification: 1977)

Articles 4, 6, 7, 8 and 12 of the Convention. Protection of the wages of indigenous agricultural workers. In its previous comments, the Committee noted the measures taken by the Government to combat forced labour and abusive practices in the payment of wages to indigenous agricultural workers and asked the Government to provide information on the impact of these measures on the situation of the workers. The Committee notes that the Government provides information in its report on the activities of the Fundamental Rights Unit at the Ministry of Labour to protect the labour rights of indigenous agricultural workers and on the results of the integrated mobile inspection units, particularly in remote rural areas and in enterprises that employ indigenous workers. The Committee also notes that this subject is addressed in the context of monitoring the application of the Forced Labour Convention, 1930 (No. 29). In this respect, the Committee refers to its comments on the application of Convention No. 29.

The Committee is raising other matters in a request addressed directly to the Government.

Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1977)

The Committee notes the observations of the Confederation of Private Employers of Bolivia (CEPB) and the International Organisation of Employers (IOE), received on 31 August and 7 November 2018.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (hereinafter Conference Committee) in June 2018 concerning the application of the Convention. The Committee notes that the Conference Committee urged the Government without delay to: (i) carry out full consultations in good faith with the most representative employers' and workers' organizations with regard to minimum wage setting; (ii) take into account when determining the level of the minimum wage the needs of workers and their families as well as economic factors as set out in *Article 3* of the Convention; (iii) avail itself of ILO technical assistance to ensure without delay compliance with the Convention in law and practice; and (iv) accept an ILO direct contacts mission. The Conference Committee also recommended the Government to submit a detailed report to the Committee of Experts in 2018.

Articles 3 and 4(1)–(2) of the Convention. Elements for the determination of the level of minimum wages and full consultation with the social partners. The Committee notes the Government's indication in its report that: (i) the national minimum wage was increased for 2018 by Supreme Decree No. 3544 of 1 May 2018; (ii) socio-economic elements taken into account for fixing the national minimum wage include inflation, productivity, gross domestic product (GDP), GDP per capita, the consumer price index, economic growth, unemployment rates, market fluctuations and the cost of living; (iii) for 2018, the corresponding consultations were held firstly with the CEPB and then with the Bolivian Workers' Confederation (COB); (iv) the Government held meetings with the representatives of both workers and employers and consultations were held on their criteria and proposals regarding wages; and (v) both parties maintain their positions and it is for the Government to seek the right balance. Moreover, the Committee notes that the CEPB and the IOE indicated in their observations, and in the discussion in the Conference Committee, that: (i) the employers could not formulate criteria with regard to minimum wage fixing; (ii) between 2006 and 2018, the increase in the national minimum wage was much higher than aggregate inflation for this period; (iii) the 2018 increase in the minimum wage did not take account of variables such as the productivity index, enterprise sustainability, the creation of more and better jobs, and the rise in the rate of informality; and (iv) the Government did not comply with the recommendations of the Conference Committee as regards convening a with the employers and the workers to discuss the fixing of the minimum wage. Furthermore, the Committee notes that the Worker members indicated in the Conference Committee that: (i) the increase in the minimum wage had taken account of a set of recommendations presented by the COB, and also socio-economic factors such as inflation, productivity, GDP, GDP per capita, the consumer price index, economic growth, unemployment rates, market fluctuations and the cost of living; and (ii) it was important to engage in social dialogue and consultations with the social partners before fixing the minimum wage.

The Committee observes that while the Government states that consultations were held with the social partners, the CEPB and the IOE claim the opposite. Furthermore, the Committee observes that there are divergences regarding the criteria reportedly taken into consideration in determining the minimum wage. The Committee recalls once again that the Convention requires full consultations in good faith with the representative employers' and workers' organizations concerned with respect to the establishment, operation and modification of machinery for fixing and adjusting the minimum wage from time to time (*Article 4(1)–(2)*), and that the active participation of these organizations is essential to allow optimal consideration of all the relevant factors in the national context (2014 General Survey on minimum wage systems, paragraph 285). In this context, the Committee notes with *regret* that the Government has still not responded to the request made by the Conference Committee to accept a direct contacts mission. In this regard, the Committee recalls that direct contacts missions involve sending a representative of the ILO Director-General to the country concerned with a view to finding a solution to the difficulties faced in the application of ratified Conventions. The work of the mission is to ascertain the facts and examine possibilities in situ for resolving the problems raised. It is an effective form of dialogue designed to find a positive solution to the issues in question. ***The Committee expresses the firm hope that this mission can take place without delay and that it will help to resolve the issues related to the application of the Convention.***

[The Government is asked to reply in full to the present comments in 2019.]

Burundi

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) **(ratification: 1963)**

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 30 August 2018, and the Government's reply.

Article 3 of the Convention. Operation of the minimum wage-fixing machinery. Further to its previous comments in this respect, the Committee notes the Government's indication in its report that it has commissioned two studies, one on an equitable wage policy and the other on the classification of jobs in Burundi, that the fixing of the guaranteed inter-occupational minimum wage (SMIG) will take place in the wake of these studies, and that this will be incorporated into the provisions of the Labour Code, which is being revised. The Committee also notes that: (i) in its observations, COSYBU calls for minimum wage fixing methods and implementing modalities to be established; and (ii) in this respect, the Government states that even if the current SMIG is not satisfactory, the employers fix wages in cooperation with the workers, taking account of the economic situation and the current purchasing power of the general public. The Committee recalls that the last decree fixing the SMIG was adopted in 1988. It notes that section 249(1) of the Labour Code provides that the National Labour Council must be consulted with regard to considering elements that may serve as a basis for fixing the minimum wage and conducting an annual review of minimum wage rates. It also notes that minimum wage rates can be fixed by collective bargaining. ***The Committee urges the Government to take all the necessary measures to reactivate without delay the review process of the minimum wage rates, as provided for in section 249 of the Labour Code, and to carry out a readjustment of the SMIG in the light of this review. It also requests the Government to provide information in this respect, and also on the minimum wages applicable to various categories fixed by collective agreements in the various branches of activity or in enterprises.***

[The Government is asked to reply in full to the present comments in 2019.]

Central African Republic

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960) **Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 2006)**

In order to provide a comprehensive review of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to consider Conventions Nos 131 (minimum wages) and 95 (protection of wages) in a single comment.

Minimum wages

Article 4 of Convention No. 131. Periodical adjustment of minimum wage rates. In its previous comments, the Committee noted that, according to the information available, the last decree fixing the guaranteed inter-occupational minimum wage (SMIG) and the guaranteed agricultural minimum wage (SMAG) was adopted in 1991. It notes with *concern* the Government's indication in its report that there has been no fixing or adjustment of minimum wages during the period covered by the report and that it does not provide information on the operation of the Standing National Labour Council (CNPT), a tripartite body whose functions include, under section 226 of the Labour Code, issuing an opinion when the SMIG and SMAG are being fixed. ***The Committee therefore urges the Government to take the necessary measures to review, without delay, the minimum wage rates and to adjust the SMIG and SMAG levels in the light of this review. The Committee requests the Government to provide information on the measures taken in this regard, including on any opinion issued by the CNPT in this context.***

Protection of wages

Article 12 of Convention No. 95. Regular payment of wages. In its previous comments, the Committee requested the Government to provide information on the settlement of wage arrears in the public sector. It notes that the Government's report does not contain information in this regard. The Committee recalls that the application in practice of *Article 12* comprises three essential elements: (i) efficient control; (ii) appropriate sanctions; and (iii) the means to redress the injury caused (see General Survey of 2003 on the protection of wages, paragraph 368). The Committee notes that the Labour Code contains provisions regulating these three elements, but that the Code excludes public employees from its scope of application. The remuneration of public employees is regulated by Act No. 09.014 of 10 August 2009 issuing the General Conditions of Service of the Central African Public Service, which does not contain provisions implementing the three elements mentioned above. ***The Committee therefore once again requests the Government to provide information on the settlement of wage arrears in the public sector. It also requests the Government to take the necessary steps to ensure the regular payment of wages in this sector through the provision of efficient control, the adoption of appropriate sanctions in cases of non-observance, and the existence of means to redress any injuries caused. The Committee requests the Government to provide information on the measures taken in this regard.***

The Committee is raising other matters in a request addressed directly to the Government.

Democratic Republic of the Congo

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1960)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2011.

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Committee notes the adoption of Act No. 10/010 of 27 April 2010 respecting public contracts. However, it notes that this new Act, which is intended to adapt the system of the conclusion of contracts to the requirements of transparency, rationality and effectiveness which currently characterize this vital sector, does not contain any provision on the labour clauses which have to be inserted in public contracts, in accordance with this Article of the Convention. In this respect, the Committee considers it necessary to refer to its 2008 General Survey, which recalls that the essential purpose of the Convention is to ensure that, through the insertion of appropriate labour clauses in public contracts, the workers employed by a contractor and paid indirectly out of public funds enjoy wages and conditions of labour which are at least as satisfactory as the wages and conditions of labour normally established for the type of work concerned, whether they are established by collective agreement or otherwise. ***While noting that section 49 of Act No. 10/010 provides for the establishment of specifications determining the conditions for the execution of the contracts, which will include general administrative clauses as well as specific administrative clauses, the Committee asks the Government to take all the appropriate measures for the inclusion of provisions giving full effect to Article 2 of the Convention in the general administrative clauses contained in the specifications. The Committee hopes that, when adopting the decrees to apply the Act to public contracts, the Government will not fail to take the opportunity to bring its legislation finally into conformity with the Convention and it requests the Government to provide a copy of any new text once it has been adopted.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Dominica

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1983)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2007.

Article 6 of the Convention. Legislation giving effect to the Convention. The Committee notes that the Government has never supplied any information of a practical nature concerning the application of the Convention. ***It would therefore be grateful if the Government would collect and transmit together with its next report up-to-date information on the average number of public contracts granted annually and the approximate number of workers engaged in their execution, extracts from inspection reports showing cases where payments have been retained, contracts have been cancelled or contractors have been excluded from public tendering for breach of the Fair Wages Rules, as well as any other particulars which would enable the Committee to have a clear understanding of the manner in which the Convention is applied in practice.***

Moreover, the Committee understands that the Government has entered into a World Bank-financed technical assistance project for growth and social protection with a view to improving, among other things, the transparent operation and the efficient management of public procurement. ***In this connection, the Committee would appreciate receiving additional information on the implementation of this project and the results obtained, in particular as regards any amendments introduced or envisaged to public procurement laws and regulations which might affect the application of the Convention.***

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Jamaica

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1962)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Committee notes that despite the detailed explanations provided in previous comments regarding the scope and purpose of the Convention as well as the steps required for its practical implementation, the Government continues to refer to legislative texts that bear little relevance with the Convention as they do not provide for labour clauses of the type prescribed in *Article 2* of the Convention. More concretely, the Committee notes the Government's reference to the Factories Act and the Minimum Wages Act as instruments protecting all workers without exception, and also to the Labour and Management Agreement (LMA) 2011–13 for the building and construction industry. In particular, the Committee notes that the LMA provides for a pay scale which is higher than the minimum wage rate which was last revised in September 2012 and is now set at 5,000 Jamaican dollars (JMD) (approximately US\$48) per 40-hour working week.

The Committee recalls, in this connection, that the Convention requires that public contracts (whether for construction works, manufacture of goods or supply of services) should include clauses ensuring to the workers concerned wages, hours of work and other labour conditions not less favourable than those locally established for work of the same character through collective agreement, arbitration award or national laws or regulations. In the case of a construction contract, for instance, this requirement would practically mean that the selected contractor and any subcontractors would be obliged to pay wages at least at the LMA rate – and not the national minimum wage – provided that the LMA contains the most favourable pay conditions for construction workers. It is precisely because employment and working conditions set out in general labour legislation are often improved through collective bargaining that the Committee has consistently taken the view that the mere fact of the national legislation being applicable to all workers does not release the government concerned from its obligation to provide for the insertion of labour clauses in all public contracts in accordance with *Article 2(1)* and *(2)*, of the Convention. **Recalling that the Convention does not necessarily require the adoption of new legislation but may also be applied through administrative instructions or circulars, the Committee expresses once again the hope that the Government will take prompt action to ensure the effective implementation of the Convention both in law and in practice.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Morocco

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1956)

The Committee notes the observations made by the Moroccan Labour Union (UMT) and those of the Democratic Confederation of Labour (CDT), received on 17 August 2017. **The Government is requested to provide its comments in this regard.**

Article 2 of the Convention. Inclusion of labour clauses in public contracts. In its previous comments, the Committee requested the Government to take the necessary measures without further delay to bring the national legislation into compliance with the Convention. The Government indicates in its report that in 2013 it adopted the legal and technical measures governing public procurement in light of the developments in the world of business and its commitments within the context of international agreements. In this context, the Government adopted Decree No. 2-12-349 of 20 March 2013 on public procurement. The Government indicates that the Decree calls for major innovations in the processes of the management of public contracts, such as unity in their regulation, the simplification and clarification of procedures, the improvement of the business climate and the reinforcement of competition. The Government adds that, in the context of the establishment of the technical file by competitors, section 25(B) of the Decree requires competitors to indicate the human and technical resources which will enable them to provide the services covered by the public procurement contract. It also refers to section 23 of Decree No. 2-14-394, of 13 May 2016, approving the list of general administrative clauses applicable to contracts for works (CCAG-T), published in the *Official Bulletin* on 2 June 2016. This Decree requires the entrepreneur to comply with the requirements of laws and regulations that are in force governing the recruitment and payment of workers, including the payment of a wage that is higher or equal to the statutory minimum wage established by the texts issued under the Labour Code. The Committee notes that, in accordance with section 25(A)(1)(b) of Decree No. 2-12-349 respecting public procurement, and section 519 of the Labour Code, securities are established for each participant in tenders in order to compel them to comply with their commitments. The Committee notes the observations of the CDT indicating that the principles and provisions of the Convention are not set out in national law, and that the Decree of 20 March 2013 does not include the required provisions. In this context, emphasis is not placed on the rights of workers covered by public contracts, as Decree No. 2-12-349 of 20 March 2013 does not contain the provisions that are to be included in national laws and regulations on public procurement. The UMT observes that the legislation respecting public procurement does not contain sufficient guarantees for workers during the implementation of the transaction and after its conclusion, and that public contracts do not contain labour clauses. The UMT also refers to the absence of mechanisms for the automatic resolution of disputes arising out of the execution of public contracts. Although it recognizes the efforts made by the Government to improve the transparency of public contracts, the UMT calls on the Government to bring them into conformity with the provisions of the Convention and

those of the Labour Code, to include all the unions in all workshops covering the reform of the regulations on public procurement and to include clauses on labour matters in all public contracts. The Committee once again notes that the provisions set out in the two texts referred to above are not adequate to ensure the application of the Convention, as they merely remind bidders that they are required to comply with the labour legislation. They are in practice pre-qualification criteria that contractors and suppliers must meet in order to comply with the requirements in force in Morocco. In its previous comments, the Committee referred to paragraphs 117 and 118 of its 2008 General Survey on labour clauses in public contracts, in which it emphasized that the Convention does not relate to some general eligibility criteria or pre-qualification requirements for individuals or enterprises bidding for public contracts. Furthermore, certification offers proof of the past performance and compliance with the legislation of bidders but, in contrast with labour clauses, it carries no binding commitment with regard to the work to be performed. The Committee reiterates that the requirement imposed by the Convention is to inform tenderers in advance, through model labour clauses in the tendering documents that, if they succeed in obtaining the contract, they will be required to apply wages and other working conditions that are at least as favourable as the highest standards established in the same district by collective agreement, arbitration award or national laws or regulations. **Accordingly, noting that the regulation on public contracts still falls short of the requirements of the Convention, the Committee once again requests the Government to take the necessary steps without delay to bring the national legislation into conformity with the Convention. It reminds the Government that it may have recourse to ILO technical assistance, if it so wishes.**

Nigeria

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1961)

Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine Conventions Nos 26 (minimum wage) and 95 (protection of wages) together.

The Committee notes the observations of the Nigeria Labour Congress (NLC) received on 8 September 2017 on the application of these Conventions.

Minimum wage

Article 1 of Convention No. 26. Scope of minimum wage protection. In its previous comments, the Committee referred to the exclusions from the National Minimum Wage Act and requested the Government to indicate any progress made with regard to extending the scope of that legislation to all workers in need of such protection. With reference to its latest comment on the application of the Equal Remuneration Convention, 1951 (No. 100), the Committee notes the Government's indication that future amendments to the National Minimum Wage Act will extend its coverage to the workforce that is currently excluded. **It therefore hopes that in the context of the next review of the national minimum wage this matter will be addressed and it requests the Government to provide information on progress made in this regard.**

Article 4(1). System of supervision and sanctions. The Committee notes that the NLC indicates that at the state level, governments are reluctant to implement the law on the national minimum wage. **The Committee requests the Government to send its comments in this regard and to indicate how it ensures that the national minimum wage is applied at all levels, including at the state level.**

Protection of wages

Article 2 of Convention No. 95. Protection of wages of homeworkers and domestic workers. Following its previous comments on this matter, the Committee notes that the Government indicates in its report that the Labour Standards Bill which extended the application of the labour legislation to homeworkers and domestic workers has been withdrawn from the National Assembly and was being reviewed by the stakeholders. **The Committee requests the Government to provide information on progress made in the revision of the labour legislation and on any measures taken or envisaged to ensure the protection of wages of homeworkers and domestic workers.**

Articles 6 and 12(1). Workers' freedom to dispose of their wages and regular payment of wages. The Committee recalls that it previously requested the Government to revise section 35 of the Labour Act which allows the Minister of Labour to authorize deferred payment of up to 50 per cent of workers' wages until the completion of their contract. In the absence of new information on this matter, the Committee recalls that such deferred payment would impede workers' freedom to dispose of their wages and that it is inconsistent with the requirement of payment of wages at regular intervals. **Therefore, the Committee requests the Government to revise section 35 of the Labour Act and to provide information on progress made in this respect. It also requests the Government to indicate in which circumstances use has been made of this provision in recent years.**

Article 7(2). Work stores. The Committee notes that section 6(1) of the Labour Act provides that the Minister of Labour may, after consultation with the State Authority, give approval to an employer to establish a shop for the sale of

provisions to his workers and that no worker shall be compelled by any contract or agreement, written or oral, to purchase provisions at any shop so established. The Committee recalls that *Article 7(2)* also requires that where access to stores or services other than those operated by the employer is not possible, the competent authority shall take appropriate measures in order to ensure that goods and services are sold at a fair and reasonable price and only for the benefit of the workers concerned. ***In the absence of any provision regulating this particular situation in the Labour Act, the Committee requests the Government to indicate what measures are in place in order to ensure the application of this provision of the Convention.***

Article 12(1). Regular payment of wages. The Committee notes that, in its observations, the NLC indicates that there are issues of non-regular payment of wages in several states. The Committee also notes the absence of any reply from the Government to its previous request for information on the situation of wage arrears in the country. The Committee recalls once again the importance of ensuring timely and complete payment of wages due to workers and emphasizes that accumulation of wage debts contravenes the letter and the spirit of the Convention. ***The Committee requests the Government to take the necessary measures, such as reinforcing supervision and strengthening sanctions, to address this issue and to provide information on the sectors and regions most affected, and the average length of time involved in late payments.***

Article 14. Information on wages before entering employment and wage statements. The Committee notes that section 7(1) of the Labour Act provides that the rates of wages and methods of calculation and periodicity of the payment shall be communicated to workers not later than three months after the beginning of their employment. In addition, the Committee notes that the Labour Act does not provide for wage statements to be issued to workers at the time of each payment. The Committee recalls that *Article 14* provides for workers to be informed of the applicable wage conditions before they enter employment and for wage statements to be issued to them at the time of each payment. ***The Committee requests the Government to indicate the measures taken to ensure full conformity with this provision of the Convention.***

Rwanda

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1962)

Articles 1 and 2 of the Convention. Insertion of labour clauses in public contracts. In its previous comments, the Committee recalled that it has been commenting on the Government's failure to implement the basic requirements of the Convention for over 30 years. In this regard, the Government refers to section 44 of Law No. 13/2009 of 27 May 2009, which provides that the subcontract must contain a guarantee of payment of salary and provide respect of general conditions of work, health and safety in the workplace and other obligations of the employer in regard to the worker. The Committee once again recalls that the mere application of the general labour legislation to public procurement contracts does not produce the same legal effects as the insertion of the labour clauses expressly required under *Article 2* of the Convention. Moreover, as the Committee has pointed out on a number of occasions, the legislation to which the Government refers in most cases lays down minimum standards, for instance as regards wage levels, and does not necessarily reflect the actual working conditions of workers. Thus, if the legislation establishes a minimum wage, but workers in a particular profession are actually receiving higher wages, the Convention would require that any workers engaged in the execution of a public contract – in the same area and for work of the same character – be entitled to receive the prevailing wage rather than the minimum wage prescribed in the legislation. In other terms, the application of the general labour legislation is not sufficient to ensure the application of the Convention, inasmuch as the minimum standards fixed by law are often improved upon by means of collective agreement or otherwise. The Government indicates in its report that Law No. 13/2009 of 27 May 2009 regulating labour in Rwanda is currently under review. The Committee takes note of the assurances given by the Government that the revision of the national labour legislation will provide for the insertion of labour clauses into public contracts to ensure that the workers concerned benefit from wages, hours of work and other conditions of labour, and in so doing bring the national legislation into conformity with the provisions of the Convention. ***The Committee hopes that the Government will take the opportunity presented by the revision of Law No. 13/2009 of 27 May 2009 to bring its national legislation into full conformity with the provisions of the Convention, particularly as regards: the determination of the terms of the labour clauses to be included in public contracts to which the Convention applies, after consultation with the organizations of employers and workers concerned (Article 2(3)); the dissemination of those clauses, by advertising specifications or otherwise, so that tenderers are aware of the terms of the clauses (Article 2(4)); the posting of notices in conspicuous places to ensure that the workers concerned are informed of the conditions of work applicable to them (Article 4(a)(iii)); and the establishment and implementation of a system of inspection and adequate sanctions, by the withholding of contracts or of payments due, for failure to apply the provisions of labour clauses (Article 5). Moreover, noting that under the Public Procurement Act of 2007, the Rwanda Public Procurement Authority (RPPA) is responsible for regulating and monitoring all public procurement operations, the Committee requests the Government to provide detailed information on any measures taken or planned by the RPPA with a view to ensuring fair labour conditions for those engaged in the execution of public contracts.***

Uganda

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)

Article 3 of the Convention. Operation of the minimum wage fixing machinery. The Committee recalls that, following the discussion of this case before the Conference Committee on the Application of Standards in June 2014, it had requested the Government to provide information with regard to the announced reactivation of the Minimum Wages Advisory Board and the subsequent fixation of a new minimum wage in the country. The Committee notes that the Government indicates in its report that a Minimum Wages Advisory Board was appointed in 2015 and that it undertook a comprehensive study of the economy with a view to providing advice to the Government on the feasibility of fixing a minimum wage in the country and the form that the minimum wage should take. The Government also indicates that the report of the Board was under discussion in the Cabinet. Despite the progress made with the reactivation of the minimum wage fixing mechanism in 2015, the Committee notes with **concern** that the minimum wage, which was last set in 1984, has yet to be adjusted. ***It therefore requests the Government to take the necessary measures to revise the level of the minimum wage without further delay. Recalling the importance of ensuring the close involvement of employers' and workers' organizations at all stages of this process, the Committee requests the Government to provide information on the composition of the Minimum Wages Advisory Board and on the consultations undertaken with the social partners in revising the level of the minimum wage.***

Ukraine

Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)

The Committee takes note of the observations submitted by the Federation of Trade Unions of Ukraine (FPU) in 2017 concerning the wage arrears situation in the country, and of the response of the Government in this regard. It also takes note of the observations from the Confederation of Free Trade Unions of Ukraine (KVPU) received on 31 August and 29 October 2018, concerning the same issue.

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee notes that in March 2017, the Governing Body approved the report of the tripartite committee set up to examine the representation submitted by the FPU, the KVPU, the Federation of Transport Workers' Trade Unions, the Association of All-Ukrainian Autonomous Trade Unions, the Association of All-Ukrainian Trade Unions and Trade Union Associations "Iednist", and the Federation of Trade Unions of Small and Medium Business' Workers of Ukraine, under article 24 of the ILO Constitution (document GB.329/INS/20/2). Noting that the representation concerned the wage arrears situation in the country, the Committee will examine the follow-up given to the recommendations of the tripartite committee under *Article 12* below.

Article 12 of the Convention. Regular payment of wages. Settlement of wages at termination of employment. Wage arrears situation in the country. Both the Committee in its previous comments and the Governing Body in its decision on the representation requested the Government to pursue its efforts to address the issue of wage arrears. The Committee notes that the Government indicates in its report that, while several initiatives have been introduced to tackle the problem, wage arrears in the country have increased since 2016, due to the difficult economic situation and the armed conflict in the East. The Committee also notes that the KVPU indicates that, despite the legislative arsenal in place, wages arrears have increased in recent years. The Committee recalls that the application of *Article 12* in practice comprises three essential elements: (1) efficient control and supervision; (2) appropriate sanctions; and (3) the means to redress the injury caused, including fair compensation for the losses incurred by the delayed payment (2003 General Survey on protection of wages, paragraph 368).

With regard to efficient control and supervision, the Committee notes that the Governing Body requested the Government to adopt without delay all necessary measures to ensure the effective monitoring of the payment of wages by the labour inspection services. The Committee notes the information provided by the Government on the inspections conducted by the State Labour Service and its territorial directorates on the payment of wages, resulting in the issuance of instructions to remedy the situation, the referral of certain cases to law enforcement agencies and administrative courts, the imposition of sanctions, and the payment of a portion of the wage arrears. On the other hand, the Committee notes that the KVPU considers that the state bodies that control and supervise the application of the relevant legislation do not work effectively. ***Emphasizing the importance of properly functioning labour inspection services capable of identifying breaches of wage legislation and prosecuting offenders for the implementation of Article 12 (2003 General Survey, paragraph 369), the Committee refers to its comments on the application of Conventions Nos 81 and 129.***

With regard to the imposition of appropriate sanctions, the Committee notes that the Governing Body requested the Government to adopt without delay all necessary measures aimed at the full implementation of the Convention, including sufficiently effective and dissuasive sanctions to prevent and punish infringement. In this respect, the Committee takes note of the Government's indications that: (i) section 41 of the Code of Administrative Offences, section 265 of the

Labour Code and section 175 of the Criminal Code provide for penalties for the delayed payment of wages; and (ii) a series of measures have been adopted by the Cabinet of Ministers, including the increase of the fines applicable to managers in law enforcement departments that have tolerated wage arrears, and the limitation of bonuses received by managers of public enterprises that experience wage arrears. The Government also provides detailed information on the amounts of the administrative fines and financial penalties imposed in 2016 and 2017 for delays in the payment of wages. On the other hand, the Committee notes that the KVPU considers that the legislation on the liability of employers is not applied in practice. ***The Committee requests the Government to provide its comments in its respect.***

With regard to the means to redress the injury, the Committee notes that the Governing Body requested the Government to ensure that all workers affected by wage arrears receive appropriate compensation. The Committee notes the Government's indications that: (i) on 22 July 2016, the Cabinet of Ministers adopted a plan of urgent measures for the payment of wage arrears (Oder No. 517-p); (ii) investigations are being conducted in follow-up to individual complaints; and (iii) a number of cases of wage arrears are referred to local courts. The Committee also notes that the FPU and the KVPU both indicate that court decisions on the payment of wage arrears are not being implemented. The KVPU further reports that workers have difficulties exercising legal remedies, in particular because of their lack of legal awareness and financial resources to cover attorney fees. ***The Committee requests the Government to provide its comments in this respect.***

Wages arrears in the shipyard industry. The Committee notes that the FPU reports that wage arrears have further increased in one of the three shipyards referenced in the representation examined by the Governing Body. In this respect, the Government indicates that: (i) an inspection visit had been conducted in the shipyard concerned in March 2018 which evidenced violations of the legislation on the payment of wages; and (ii) following this inspection, the managing director of the shipyard was ordered to address these violations, an offence report was established, and the results of the inspection were transmitted to the regional office for a decision on the imposition of a fine. The Committee takes note of this information.

Wages arrears in the coal-mining industry. The Committee notes that the KVPU indicates that wage arrears are particularly prevalent in state-owned coal-mining enterprises. Specifically, the KVPU alleges that wage arrears situations have led to a series of protest actions in the provinces of Donetsk, Luhansk, and Volyn, including a case of self-immolation, hunger strikes, and miners' refusals to be lifted up from the mines, causing severe health repercussions. The Committee notes that the Government did not reply to these serious allegations. ***The Committee requests the Government to provide its comments in this respect.***

The practice of "envelope wages". In its previous comments, the Committee requested the Government to take measures to eliminate the practice according to which workers are forced to agree to the undeclared payment of wages "in envelopes", resulting in the non-payment of the corresponding social contributions. ***Noting that the Government does not provide information in this respect, the Committee is bound to reiterate its previous request. It requests the Government to provide information on the measures taken in this respect.***

Finally, the Committee notes that the Governing Body encouraged the Government to fully involve the social partners in the search for solutions to the problem of wage arrears. ***Recalling that bringing the accumulation of wage arrears to an end requires continuous dialogue with the social partners (2003 General Survey, paragraph 374), the Committee requests the Government to fully involve the social partners to find solutions to the issue of wage arrears and to ensure the regular payment of wages. The Committee also reminds the Government of the possibility to avail itself of ILO technical assistance in this regard.***

The Committee notes that in application of the new reporting cycle for technical Conventions adopted by the Governing Body at its November 2018 session, the Government will be requested to send a report on the application of the Convention in 2019.

The Committee is raising other matters on the application of ratified Conventions on wages in a request addressed directly to the Government.

Uruguay

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) ***(ratification: 1954)***

Article 2 of the Convention. Inclusion of labour clauses in public contracts. In response to previous comments, the Government reports that the limitations on the scope of Decree No. 475/005 and Act No. 18.098 to public contracts for services are in line with the special characteristics of this type of contract, which often take longer to fulfil, necessitating the establishment of labour relationships that require the recognition of special rights. On the other hand, contracts for goods include requirements that are immediately fulfilled when the provider delivers the goods or products. With regard to contracts for public works, the Government indicates that, as this type of contract involves the delivery of both goods and services, the abovementioned legislation also applies to all aspects of the contract that involve the provision of services. In this regard, the Government refers to the adoption of Decree No. 257/015 of 23 September 2015 approving the single document setting out the regulations and general conditions of public works contracts and the manual for public contracts

and procurement procedures for goods, works and services, which incorporates Act No. 18.098 among the regulations governing public contracts. The Committee notes the clarification provided by the Government and recalls that, as explained in the Practical Guide prepared by the Office in 2008 (page 17), the Convention applies to all public contracts, whether for works (for example construction of a new highway, extension of an airport terminal), goods (for example the purchase of new uniforms for customs officers or procurement of computer hardware for a ministry) or services (for example cleaning or IT services). Furthermore, the Committee observes that the Government does not provide information on the steps taken to amend Act No. 18.098 with a view to bringing it into line with the requirements of this Article of the Convention, as the Act only requires compliance with wage rates fixed by wage boards, and not the more favourable conditions provided for in laws, regulations, collective agreements or arbitration awards. ***The Committee therefore once again requests the Government to take the necessary measures to ensure that the scope of the provisions of Decree No. 475/005 are extended to cover all types of public contracts envisaged by the Convention. The Committee reiterates its request to the Government to amend Act No. 18.098 to bring it fully into line with the requirements of Article 2 of the Convention.***

Yemen

Labour Clauses (Public Contracts) Convention, 1949 (No. 94) (ratification: 1969)

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Government reports that a draft Labour Code has been prepared in coordination with the ILO, and that it is in compliance with international labour standards. The Government adds that issues raised in the Committee's previous comments with regard to the insertion of labour clauses in public contracts as prescribed by *Article 2* of the Convention will be brought to the attention of the Supreme Commission on Auctions and Bids. The Committee notes the Government's indication that it requires the technical assistance of the ILO in relation to the measures to be taken to ensure that all public contracts contain labour clauses that comply with the provisions of the Convention. ***The Committee once again requests the Government to take the necessary measures to ensure that all public contracts contain labour clauses and hopes that the Government will be soon in a position to report progress in giving full effect to this core requirement of the Convention. The Committee encourages the Government to avail itself of the technical assistance of the Office in this regard.***

Zambia

Protection of Wages Convention, 1949 (No. 95) (ratification: 1979) **Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1972)**

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on wages, the Committee considers it appropriate to examine Convention No. 131 (minimum wage-fixing) and Convention No. 95 (protection of wages) in a single comment.

Minimum Wage Fixing Convention, 1970 (No. 131)

Article 4(2) and (3) of the Convention. Consultation with and direct participation of employers' and workers' organizations in the minimum wage fixing system. The Committee notes that, in reply to the issues previously raised by the Zambia Federation of Employers (ZFE) and the International Organisation of Employers (IOE) regarding the lack of consultations with employers' organizations in the process of adjusting the minimum wage, the Government indicates in its report that consultations with representative organizations of employers and workers take place through the Tripartite Consultative Labour Council (TCLC) established under the Industrial and Labour Relations Act. The Government also indicates that the concerns previously raised by the Committee in relation to section 3(1) of the Minimum Wages and Conditions of Employment Act which only provides for consultations with trade unions in the process of determining the minimum wage will be addressed in the context of the ongoing labour law reform. In particular, the Government makes reference to the draft Labour Code which would revise and consolidate various Acts including the Minimum Wage and Conditions of Employment Act. The proposed Labour Code would establish a Labour Advisory Committee, as an ad hoc committee of the TCLC, with a mandate to enquire into the wages and conditions of employment in any sector and to make recommendations to the Minister of Labour and Social Security on minimum wages and conditions of employment. The Committee also notes the Government's indication that the labour law reform is carried out in consultation with social partners. ***The Committee hopes that, in finalizing the draft legislation in full consultation with representative organizations of employers and workers, the Government will take into account its comments and requests it to provide information on any progress made in this respect. It also requests the Government to ensure full consultation with and, as appropriate, direct participation of employers' and workers' organizations in the next revision of the minimum wage rates.***

Protection of Wages Convention, 1949 (No. 95)

Article 12 of the Convention. Regular payment of wages. With regard to its previous comments requesting a detailed account on the problems of non-payment or delayed payment of wages encountered in the country, the Committee notes the Government's indication that no information on this matter was available at the time of the submission of its report. ***The Committee is therefore bound to reiterate its request that the Government provide detailed information regarding the amount of wage arrears and the number of workers affected and to indicate which sectors of economic activity, if any, are affected by irregular payment of wages.***

The Committee is raising other matters relating to the application of the Conventions on wages in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 26** (Barbados, Canada, China: Macau Special Administrative Region, Colombia, Dominica, Dominican Republic, Guinea-Bissau, Lesotho, Malawi, Papua New Guinea, Saint Lucia, Seychelles, Sierra Leone, Zimbabwe); **Convention No. 94** (Antigua and Barbuda, Belize, Guyana, Malaysia: Sabah, Malaysia: Sarawak, Mauritania, Netherlands: Aruba, Netherlands: Curaçao, Nigeria, Sierra Leone, Singapore, Solomon Islands, The former Yugoslav Republic of Macedonia, Turkey, Uganda); **Convention No. 95** (Albania, Argentina, Bahamas, Plurinational State of Bolivia, Botswana, Brazil, Central African Republic, Colombia, Democratic Republic of the Congo, Dominica, Dominican Republic, Eswatini, Grenada, Kyrgyzstan, Malaysia, Nicaragua, Russian Federation, Saint Vincent and the Grenadines, Sierra Leone, Solomon Islands, Spain, Tajikistan, United Republic of Tanzania, Uganda, Ukraine, Zambia); **Convention No. 99** (Colombia, Kenya, Malawi, Papua New Guinea, Seychelles, Zimbabwe); **Convention No. 131** (Antigua and Barbuda, Brazil, El Salvador, Kenya, Kyrgyzstan, The former Yugoslav Republic of Macedonia, Ukraine, Zambia); **Convention No. 173** (Albania, Botswana, Spain, Ukraine, Zambia).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 26** (Argentina, Bahamas, Belarus, Chile, China, Czech Republic, Ghana, Grenada, Jamaica, Luxembourg); **Convention No. 95** (Barbados, Czech Republic, Saint Lucia); **Convention No. 99** (Czech Republic, El Salvador, Grenada); **Convention No. 131** (Albania, Chile, Eswatini, United Republic of Tanzania).

Working time

Haiti

Hours of Work (Industry) Convention, 1919 (No. 1) (ratification: 1952)

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1952)

Hours of Work (Commerce and Offices) Convention, 1930 (No. 30) (ratification: 1952)

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1958)

In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on working time, the Committee considers it appropriate to examine Conventions Nos 1, 14, 30 and 106 in a single comment.

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 29 August 2018, the Association of Haitian Industries (ADIH), received on 31 August 2018, and the International Trade Union Confederation (ITUC), received on 1 September 2018.

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)

The Committee notes the discussion which took place in the Conference Committee on the Application of Standards (Conference Committee), including with regard to the impact of the 2017 Act to organizing and regulating work over a 24-period divided into three segments of eight hours (hereinafter: Act on working time) on the application of the ratified Conventions on working time. In its conclusions, the Conference Committee asked the Government to: (i) review in consultation with the most representative employers' and workers' organizations the conformity of the Labour Code and the Act on working time, with respect to the ratified ILO Conventions on working time; (ii) strengthen the labour inspectorate and other relevant enforcement mechanisms to ensure that workers benefit from the protection afforded by the Conventions; (iii) report to the Committee of Experts on these measures; and (iv) avail itself of technical assistance to address these matters.

The Committee notes that, at the end of the discussion in the Conference Committee, the Government recalled that the Conventions that Haiti had ratified were part of its body of domestic law under article 276-2 of the Constitution of Haiti, and took precedence over national laws in the hierarchy of standards and could be invoked without reserve before the courts. Taking note of the observations of the Committee of Experts concerning the application of the Act on working time, the Government indicated that it was planning to hold tripartite consultations to identify and overcome the main difficulties encountered in the application of the Act, and to issue orders or regulations. The Government also indicated that it was aware of the delay in finalizing the process of reforming the Labour Code. Discussions had begun at the level of the Prime Minister's Office and would be continued within a tripartite framework, in the spirit of the San José Agreement of 21 March 2018 signed by the social partners, taking into account the Office's recommendations.

Furthermore, the Committee notes that the CTSP, in its observations, expresses regret at the lack of progress on working time issues since the discussion in the Conference Committee. However, the CTSP indicates that discussions on the reform of the Labour Code have resumed. The Committee also notes that the ADIH confirms that tripartite discussions on the reform of the Labour Code resumed in August 2018. According to the ADIH, the Act on working time should be repealed and the employers' and workers' organizations should be consulted on the application of the Conventions ratified in this field. The Committee further notes that the ITUC refers to the discussion of the case during the Conference Committee and indicates in particular that: (i) the Act on working time, which liberalizes the regulations on this subject, is giving rise to serious abuses; (ii) the Act was adopted without consultation and outside the process of negotiation of a new Labour Code; and (iii) the situation is aggravated by the lack of resources for labour inspection. The ITUC refers in particular to: (i) workers in the informal economy and in domestic work who are subjected to indecent working conditions in terms of both working time and leave entitlement; (ii) security personnel and subcontracted workers in the textile sector, where there is a regrettable lack of fixed working hours and a refusal by employers to pay overtime; and (iii) workers in export processing zones who are particularly subjected to abuses. **The Committee requests the Government to send its comments on all the above observations.**

Lastly, the Committee notes the Government's communication received on 30 October 2018 in which it informs the Committee that, further to the conclusions of the Conference Committee, it has requested ILO technical assistance to help it, inter alia, to submit the reports due, to strengthen the inspection services, to consolidate social dialogue with a view to pursuing social reforms, and to address the other matters raised by the Conference Committee. The Government also indicates that it hopes to receive this assistance before the next session of the International Labour Conference. **The Committee hopes that this technical assistance will be made available without delay. The Committee requests the Government to provide detailed information on the results of the planned technical assistance, and also on the measures taken to ensure the effective application in law and practice of the ratified Conventions on working time.**

[The Government is asked to reply in full to the present comments in 2020.]

Indonesia

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) (ratification: 1972)

Article 8 of the Convention. Temporary exemptions from the normal weekly rest. In its previous comments, the Committee noted that section 11(b) of the Decree of the Minister of Manpower and Transmigration No. KEP-102/MEN/VI/2004 on Overtime Work and Overtime Pay (the 2004 Decree) provided that when working on their weekly rest day, workers received overtime pay. Recalling that, in accordance with *Article 8(3)*, where temporary exceptions are made in respect of the weekly rest day, compensatory rest of a total duration of at least 24 consecutive hours must be granted, irrespective of any financial compensation, the Committee requested the Government to take appropriate action in order to ensure that the national legislation would give full effect to *Article 8*. The Committee notes that the Government indicates in its report that based on the results of a review of the 2004 Decree, it had been agreed that the Decree would be revised to provide for compensatory time off in case of workers working on their weekly rest day. The Government also indicates that there had been no report submitted by workers to labour inspectors regarding violations of the weekly rest day and that this was due to the fact that application of the Decree in practice was arranged by an agreement between the workers and their employers. The Committee understands from the Government's report that work during the weekly rest day is regulated through collective agreements. The Committee also notes that the 2004 Decree does not provide a list of the limited circumstances in which work could be allowed during the weekly rest day. In this regard, the Committee recalls that *Article 8(1)* only allows temporary exemptions from the normal weekly rest in three circumstances: (a) in case of accident, actual or threatened, force majeure or urgent work to premises and equipment, but only so far as may be necessary to avoid serious interference with the ordinary working of the establishment; (b) in the event of abnormal pressure of work due to special circumstances, insofar as the employer cannot ordinarily be expected to resort to other measures; and (c) in order to prevent the loss of perishable goods. It further recalls that, according to *Article 8(2)*, the representative employers' and workers' organizations concerned, where such exist, shall be consulted in determining the circumstances in which temporary exemptions may be granted in accordance with the provisions of subparagraphs (b) and (c) above. In its 2018 General Survey on working time instruments, the Committee emphasized the importance of keeping recourse to exemptions from the general 24-hour weekly rest rule to what is strictly necessary, and for such exemptions to be authorized under clearly specified conditions, in line with *Article 8(1)*. ***The Committee therefore requests the Government to ensure that, in the context of the revision of the 2004 Decree on overtime, the circumstances in which work can be authorized during weekly rest days are limited to those identified in Article 8(1) and that compensatory rest would be granted, in conformity with Article 8(3), irrespective of any financial compensation. It requests the Government to provide information on progress made in this regard. It also requests the Government to provide information on any collective agreements which would regulate the possible exemptions from the normal weekly rest.***

Malaysia

Sarawak

Weekly Rest (Industry) Convention, 1921 (No. 14) (ratification: 1964)

Article 2 of the Convention. Weekly rest entitlement. Uniformity of the weekly rest period. In its previous comments, the Committee noted that due to the restrictive definition of the term "employee" in the Labour Ordinance Sarawak (Act A1237 of 2005), certain categories of workers do not benefit from the legal protection afforded in section 105B(1) of the Act which provides that every employee shall be allowed in each week a rest day of one whole day. In particular, it noted that this was the case for non-manual workers who are employed in industrial undertakings and whose monthly wages exceed 2,500 Malaysian ringgit (MYR) per month, as they were excluded from the definition of "employee" (section 2 and Schedule). Recalling that the Convention applies to "the whole of the staff employed in any industrial undertaking" (*Article 2(1)*), it requested the Government to indicate how it ensured the weekly rest entitlement of those workers who are not covered by the Labour Ordinance. The Committee also recalled that the Convention provides that the period of weekly rest shall, wherever possible, be granted simultaneously to the whole of the staff of each undertaking, and that it shall, wherever possible, be fixed so as to coincide with the days already established by the traditions or customs of the country or district (*Article 2(2) and (3)*). It asked the Government to specify how these principles are given effect in law and practice. The Committee notes that the Government indicates in its report that (i) for those employees excluded from the scope of application of the Labour Ordinance, their working conditions are determined by the terms and conditions of the labour contract or collective agreement; those employees are entitled to weekly rest day if it is spelled out in the contract of employment; (ii) the Labour Ordinance does not prescribe when the weekly rest day is to be taken; and (iii) the day of rest is to be determined by the employer from time to time. The Committee therefore notes with *concern* the absence of progress towards full application of *Article 2*. ***The Committee requests the Government to take the necessary measures to ensure that: (i) the whole of the staff employed in industrial undertakings would be entitled to weekly rest; (ii) the period of weekly rest would, wherever possible, be granted simultaneously to the whole of***

the staff of each undertaking; and (iii) the weekly rest would, wherever possible, be fixed so as to coincide with the days already established by the traditions or customs of the country or district.

Article 5. Compensatory rest. In its previous comments, the Committee noted that section 105C of the Labour Ordinance Sarawak only provides for monetary compensation, and not compensatory rest, for workers performing work on their weekly rest day. The Committee recalled that *Article 5* calls for compensatory periods of rest to be provided, as far as possible, to workers performing work on their weekly rest day and requested the Government to consider the possibility of amending the Labour Ordinance Sarawak in order to give full effect to the requirements of *Article 5*. The Committee notes that the Government indicates that there is no provision in the legislation which provides for the duty of the employer to provide for compensatory rest. ***In the absence of progress, the Committee requests the Government to take the necessary measures in order to ensure that compensatory rest is granted to workers who have to work during their weekly rest day, irrespective of any monetary compensation.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 1** (*Equatorial Guinea*); **Convention No. 30** (*Equatorial Guinea*); **Convention No. 101** (*Sierra Leone*).

Occupational safety and health

Antigua and Barbuda

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2002)

Occupational Health Services Convention, 1985 (No. 161) (ratification: 2002)

In order to provide a comprehensive view of the issues relating to the application of ratified occupational safety and health (OSH) Conventions, the Committee considers it appropriate to examine Conventions Nos 155 (OSH) and 161 (occupational health services) together.

General provisions

Occupational Safety and Health Convention, 1981 (No. 155)

Legislation. In its previous comments, the Committee noted the Government's intention to adopt new OSH legislation and to repeal Division D of the Labour Code (No. 14 of 1975) (Cap. 27) concerning employment health, safety and welfare. In this respect, the Committee notes the Government's indication in its report that no legislative measures or other measures have been taken regarding the application of this Convention. **The Committee requests the Government to provide detailed information on any developments regarding its intention to adopt new OSH legislation. It further requests the Government to take the Committee's comments below into account in the context of any reform of its OSH legislation, and to take the necessary measures to ensure that full effect is given to the provisions of this Convention. The Committee requests the Government to provide detailed information on any measures taken or envisaged in this regard.**

Articles 4, 5, 7, 11(a), (b), (e) and (f) and 15 of the Convention. Formulating and implementing a national policy on OSH. The Committee previously noted that the Government had not yet taken any measures to formulate or implement a coherent national policy on OSH. **The Committee once again requests the Government to provide information on the measures taken or envisaged to formulate, implement and periodically review a coherent national policy on OSH and the working environment in consultation with the most representative workers' and employers' organizations, taking into account the fields of action prescribed in Article 5, and ensuring that the functions referred to in paragraphs a, b, e and f of Article 11 are progressively carried out, and that the institutional arrangements referred to in Article 15 are made.**

Articles 13 and 19(f). Protection from undue consequences of a worker who has removed themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health. The Committee previously noted that the national legislation was silent on the issues regulated in Articles 13 and 19(f) of the Convention. **The Committee requests the Government to take the necessary measures to ensure protection against undue consequences for workers who have removed themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health and to ensure that such workers are not required to return to work situations while the imminent and serious danger is continuing.**

Article 17. Measures to ensure that two or more enterprises which engage in activities simultaneously at one workplace collaborate in applying the requirements of the Convention. The Committee previously noted that there are no provisions in national legislation giving effect to this Article of the Convention. **The Committee requests the Government to take the necessary measures in law and in practice, to ensure collaboration in applying the requirements of this Convention whenever two or more undertakings engage in activities simultaneously at one workplace.**

Article 19(a)–(e). Arrangements made at the level of the undertaking ensuring suitable conditions for all aspects of cooperation between employers, workers and their representatives, consultations with them and their training. **The Committee once again requests the Government to indicate the measures taken, in law and in practice, to give effect to Article 19(a)–(e) of the Convention.**

Article 20. Cooperation between management and workers and/or their representatives within the undertaking. **The Committee once again requests the Government to provide further information on the measures taken to give effect to Article 20 of the Convention.**

Application in practice. Noting an absence of information in this respect, **the Committee once again requests once again the Government to provide information on the application in practice of the Convention, including information on the number, nature and causes of occupational accidents and cases of diseases reported.**

Occupational Health Services Convention, 1985 (No. 161)

Measures to implement the Convention. In its previous comments, the Committee requested the Government to provide information on whether occupational health services had been established by collective agreements or as otherwise agreed upon by the employers and workers concerned, or in any other manner approved by the competent

authority after consultation with the representative organizations of employers and workers concerned. The Committee notes with **concern** the Government's indication that no legislative measures or other measures have been taken regarding the application of this Convention, and that there are no distinct OSH services in the country with preventive functions that are responsible for advising employers. The Committee also notes the Government's statement that, where OSH incidents arise, the persons concerned generally seek assistance from local practitioners. **Recalling that the establishment of occupational health services can be provided through laws or regulations; by collective agreements or as otherwise agreed upon by the employers and workers concerned; or any other manner approved by the competent authority after consultation with the representative organizations of employers and workers concerned, the Committee urges the Government to take the necessary measures to ensure that full effect is given to the provisions of this Convention in the near future. It further requests the Government to provide detailed information on any measures taken or envisaged in this regard.**

The Committee is raising other matters in a request addressed directly to the Government.

Belize

Radiation Protection Convention, 1960 (No. 115) (ratification: 1983)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

General observation of 2015. The Committee would like to draw the Government's attention to its general observation of 2015 under this Convention, including the request for information contained in paragraph 30 thereof.

The Committee notes the information in the Government's current report that the National Occupational Safety and Health (NOSH) Bill does take into consideration all the Committee's observations as it ensures the effective protection of workers exposed to ionizing radiation in the course of their work. The Committee also notes from the Government's report that provisions have been made in the NOSH Bill for maximum permissible doses of ionizing radiation, alternative employment (especially for pregnant women) and the prevention of occupational exposure during an emergency. Furthermore, according to available information, the NOSH Bill has not yet been adopted due to concerns that it may be burdensome to employers. The Committee notes that, in spite of its previous request, the Government has not provided a detailed report as requested by the Committee. The Committee wishes to emphasize that the indication that the new legislation is in the process of adoption does not free the Government from the obligation to ensure the application of the provisions of the Convention during the transition period and to provide such information in its report. **The Committee requests the Government to supply detailed information on the application of the Convention, including new legislation, if adopted, and where it has not been adopted, the manner in which the Government ensures the application of the provisions of the Convention in practice. It also reiterates its request to the Government to respond in detail to its previous observation which reads as follows:**

Articles 3(1) and 6(2) of the Convention. Maximum permissible doses of ionizing radiation. With reference to its previous comments, the Committee notes the Government's response indicating that on 13 March 2009, the Labour Advisory Board was re-activated and that its main duty is the revision of national labour legislation. The Committee notes that the Ministry is currently in the process of identifying a consultant that will work with the Labour Advisory Board to conduct the revision of the legislation, and that comments made by the Committee will be submitted to the Board. **The Committee hopes that in the course of the ongoing revision of national labour legislation due account will be taken on the exposure limits adopted by the International Commission on Radiological Protection, in order to ensure the effective protection of workers exposed to ionizing radiation in the course of their work.**

Article 14. Provision of alternative employment. The Committee notes the Government's response indicating that there is no provision in the Labour Act for the transfer of pregnant women from their work involving exposure to ionizing radiation to another job. The Committee notes, however, the Government's statement that the National Occupational Safety and Health Policy, adopted by Cabinet on 9 November 2004, can provide a suitable framework for drafting legislation that could make provision for such transfer and that legislation is drafted in consultation with the Labour Advisory Board. **The Committee hopes that in the course of the ongoing revision of the national labour legislation due account will be taken of the need to ensure that suitable alternative employment opportunities, not involving exposure to ionizing radiations, be provided for workers having accumulated an effective dose beyond which detriment to their health considered unacceptable is to arise, as well as for pregnant women, who may be faced with the dilemma that protecting their health means losing their employment.**

Occupational exposure during an emergency. The Committee notes that there is currently no provision within the Labour Act laying out the circumstances in which exceptional exposure is authorized. **The Committee requests the Government, in the course of the ongoing revision of the national labour legislation, to take due account of the need to determine circumstances in which exceptional exposure is authorized, and to make protection as effective as possible against accidents and during emergency operations, in particular with regard to the design and protective features of the workplace and the equipment, and the development of emergency intervention techniques, the use of which in emergency situations would enable the exposure of individuals to ionizing radiations to be avoided.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Plurinational State of Bolivia

Benzene Convention, 1971 (No. 136) (ratification: 1977)

Asbestos Convention, 1986 (No. 162) (ratification: 1990)

In order to provide a comprehensive overview of matters arising in relation to the application of the ratified occupational safety and health (OSH) Conventions, the Committee considers it appropriate to examine the Benzene Convention, 1971 (No. 136), and the Asbestos Convention, 1986 (No. 162) together.

Protection against particular risks

Benzene Convention, 1971 (No. 136)

Article 4 of the Convention. Prohibition of the use of benzene as a solvent or diluent. The Committee notes the Government's indication in its report that the use of benzene is not prohibited. **The Committee requests the Government to take the necessary measures, in accordance with Article 4 of the Convention, to prohibit the use of benzene and of products containing benzene as a solvent or diluent, except where the process is carried out in an enclosed system or where there are other equally safe methods of work.**

Asbestos Convention, 1986 (No. 162)

Articles 3 and 4 of the Convention. Legislation and consultation. Referring to its previous comments, the Committee notes that the Government repeats information in its report concerning general OSH standards to which it referred previously. The Committee notes with **concern** that the necessary measures have not been taken to bring the legislation into conformity with *Article 3* of the Convention. Moreover, with regard to the application of *Article 4*, the Government provides information on consultations with the social partners concerning the construction sector, but not specifically related to asbestos. **The Committee once again strongly urges the Government, in accordance with Articles 3 and 4 of the Convention, to take the necessary legislative measures: (a) to prevent and control health hazards due to occupational exposure to asbestos; (b) to protect workers against such risks; and (c) to consult the most representative organizations of employers and workers concerned with regard to the measures to be taken to give effect to the provisions of the Convention.**

Articles 9, 10, 11, 12 and 16. Preventive measures by law or regulation. Prohibition of the use of crocidolite and spraying. Practical measures for prevention and control. **The Committee once again requests the Government to provide information on the measures taken or envisaged to ensure the application of Articles 9 and 10 (preventive measures by law or regulation), Article 11 (prohibition of crocidolite), Article 12 (prohibition on spraying) and Article 16 (practical measures for prevention and control) of the Convention.**

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2019.]

Central African Republic

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2006)

Articles 4, 5 and 8 of the Convention. National policy. Spheres of action. Further to its previous comments, the Committee notes that the Government reiterates in its report that the Directorate of Occupational Medicine has launched a project on the national policy on occupational health and safety (OSH). **While taking due note of this information, the Committee requests the Government to take the necessary measures to formulate, implement and periodically review a coherent national policy on OSH and the working environment, in consultation with the most representative organizations of employers and workers, and to take such steps as may be necessary, by laws or regulations, to give effect to this policy, in accordance with Articles 4, 5 and 8 of the Convention.**

Article 7. Periodic review of the situation regarding OSH and the working environment. Further to its previous comments, the Committee notes that the Government reiterates that the situation regarding OSH and the working environment is not reviewed neither systematically nor at appropriate intervals, due to a lack of material, human and financial resources. **While noting the Government's indications concerning the lack of resources, the Committee requests the Government to take the necessary measures to ensure that the situation regarding OSH and the working environment is subject to an overall review at appropriate intervals.**

Articles 13 and 19(f). Situation of imminent and serious danger to life or health. Further to its previous comments, the Committee notes that the Government's report does not contain information on: (a) the measures taken or envisaged to ensure that any worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences of such an action, in accordance with *Article 13* of the Convention; and (b) the arrangements that have been made to ensure that an employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to

life or health, in accordance with *Article 19(f)* of the Convention. *The Committee requests the Government to take the necessary measures to give effect to Articles 13 and 19(f) of the Convention.*

The Committee is raising other matters in a request addressed directly to the Government.

China

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 2007)

Safety and Health in Construction Convention, 1988 (No. 167) (ratification: 2002)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on occupational safety and health (OSH), the Committee considers it appropriate to examine Conventions Nos 155 (OSH) and 167 (OSH in construction) together.

A. General provisions

Occupational Safety and Health Convention, 1981 (No. 155)

Article 11(c) and (e) of the Convention. Production of annual statistics on occupational accidents and diseases and application of the Convention in practice. The Committee notes the information in the Government's report, in response to the Committee's previous request, regarding the multiple agencies responsible for statistics on work safety and that the Government has established a monthly statistical system to clarify the scope, content and reporting of occupational accidents. The Committee welcomes the adoption of an annual statistics system for the coal mining industry as a result of the high incidence of pneumoconiosis in that sector. The Committee notes that the Government indicates that 26,393 cases of occupational disease were reported in 2013, among which 23,152 cases were pneumoconiosis. *The Committee requests information on the concrete measures taken as a result of the statistical information collected with respect to the prevention of occupational accidents and cases of occupational disease, including specific measures taken with respect to pneumoconiosis. It also requests the Government to continue to provide information on the production of annual statistics on occupational accidents and diseases, and to continue to provide statistical information in this regard, including with respect to the number of cases of pneumoconiosis reported. It requests the Government to provide further information on the annual publication of this information, in accordance with Article 11(e) of the Convention.*

B. Protection in specific branches of activity

Safety and Health in Construction Convention, 1988 (No. 167)

Article 8 of the Convention. Cooperation between two or more employers undertaking activities simultaneously at one construction site. The Committee previously noted the observations of the International Trade Union Confederation (ITUC) concerning the safety and health issues resulting from subcontracting in the construction industry, and it requested information on the implementation of this Article of the Convention in practice. In this respect, the Committee notes the Government's reference in its report to section 24 of the Administrative Regulations on Work Safety in Construction Projects which states that the main contractor shall be responsible for the overall occupational safety in the construction site. When the main contractor subcontracts a construction project to any other entity, it shall, in accordance with the law, explicitly stipulate their respective rights and obligations regarding work safety. The main contractor and the subcontractor shall bear joint and several liability with regard to the safety of the subcontracted project and shall share duties and responsibilities. The Committee also notes that the Government identifies certain contributing factors to the high accident rate in the construction sector, including the inadequacy of enterprise ownership, accountability and responsibility. *The Committee requests the Government to provide information on the application and enforcement of section 24 of the Administrative Regulations on Work Safety in Construction Projects in practice, including inspections undertaken, violations detected, and penalties applied for non-compliance. It also requests further information on how the main contractor ensures compliance with OSH measures and its implementation with respect to construction sites with several tiers of subcontracting.*

Article 18(1). Work at heights including roof work. The Committee previously noted the observations of the ITUC indicating that workers often did not wear safety harnesses when working at heights so that they could work faster to finish construction projects. In this regard, the Committee notes the Government's indication, in reply to its previous request, that pursuant to section 3.0(5) of the Technical Code for Safety of Work at Heights in Construction, workers shall be equipped with, and properly wear and use, protective appliances and clothing. The Committee further notes the information available on the website of the Ministry of Emergency Management concerning the high number of accidents in the construction sector, which identifies falls from heights as one of the major causes of occupational accidents in the sector. *The Committee urges the Government to take steps to enforce safety measures for work at heights and to promote the use of safety equipment at construction sites. It requests the Government to provide information on measures taken to enforce section 3.0(5) of the Technical Code for Safety of Work at Heights in Construction in*

practice. The Committee also requests the Government to provide information on the number of occupational accidents reported (and their outcome) due to falls from heights.

Article 35. Effective enforcement of the provisions of the Convention and application in practice. The Committee notes the Government's indication, in response to its previous request, that the Ministry of Housing and Urban-Rural Development has strengthened safety supervision and compels construction enterprises and sites to improve their work safety management. The Government also indicates that it has taken a number of measures to promote the application of the Convention including: carrying out national inspections of work safety in construction; prioritizing the inspection of cities, enterprises and projects with high accident rates; and undertaking research work on safety supervision. The Government further indicates that measures will be taken to address the various problems in construction safety, in particular: to enhance safety supervision and inspection; and to strengthen the investigation of accidents and the resulting penalties. The Committee notes that according to the Government, 522 occupational accidents and 648 fatalities occurred in the national municipal housing projects in 2014. According to the Government, the reasons behind these accidents include the non-standardization of the construction market; the inadequacy of enterprise ownership, accountability and responsibility; the lack of thoroughness in the elimination of hidden workplace hazards; and the inadequacy of investigations and penalties following occupational accidents. In addition, the Committee notes the information available on the website of the Ministry of Emergency Management that in 2018, the construction industry was, for the ninth consecutive year, the sector with the largest number of occupational accidents. It notes with **concern** that there was a 4.3 per cent increase in the number of accidents in construction between 2017 and 2018. *The Committee urges the Government to strengthen its efforts to ensure the application of the Convention in practice, and to provide information on the concrete steps taken to address the safety issues identified in the construction sector. It also urges the Government to continue to take the necessary measures to ensure the provision of appropriate inspection services in the sector and penalties and to provide detailed information on any developments in this regard. The Committee further requests the Government to continue to provide information on the application of the Convention in practice, including the number and nature of the contraventions reported and the measures taken to address them, and the number, nature and cause of occupational accidents and cases of occupational diseases reported.*

The Committee is raising other matters in a request addressed directly to the Government.

[The Government is asked to reply in full to the present comments in 2019.]

Croatia

Occupational Safety and Health Convention, 1981 (No. 155) (ratification: 1991)

Occupational Health Services Convention, 1985 (No. 161) (ratification: 1991)

Asbestos Convention, 1986 (No. 162) (ratification: 1991)

In order to provide a comprehensive view of the issues relating to the application of ratified Conventions on occupational safety and health (OSH), the Committee considers it appropriate to examine Conventions Nos 155 (OSH), 161 (occupational health services) and 162 (asbestos) together.

The Committee notes the observations of the Union of Autonomous Trade Unions of Croatia (UATUC) and the Independent Trade Unions of Croatia (NHS), received in 2016.

A. General provisions

Occupational Safety and Health Convention, 1981 (No. 155)

Application of the Convention in practice. The Committee notes the information in the registry of the Croatian Institute for Health Protection and Safety at Work (CIHPSW) for 2017, and notes with **concern** that the total number of recorded cases of occupational diseases increased between 2016 and 2017, from 153 in 2016 to 172 in 2017. It also notes the information that, according to the Annual Report in 2017 of the labour inspectorate, there were 22 fatalities at work in 2017. *The Committee requests the Government to continue to provide information on the manner in which the Convention is applied, and to continue to provide the number, nature and cause of occupational accidents and cases of occupational disease reported.*

Occupational Health Services Convention, 1985 (No. 161)

Articles 5(a), (b), (c), (d), (e), (g), (h), (i) and (k) and 6 of the Convention. Establishment and functions of occupational health services. The Committee notes the repeal of the former Occupational Safety and Health Act by the OSH Act 2014, and recalls that sections 22 and 82 of the repealed legislation gave effect to *Article 5* of the Convention. The Committee notes that section 80 of the OSH Act 2014 requires the employer to provide employees with occupational medical services so as to ensure health surveillance appropriate to risks, hazards and exertions during work with a view to protecting the health of employees. Section 81 of the OSH Act 2014 further provides that occupational medicine activities, as well as the plan and programme of health protection measures, shall be prescribed by special regulations on health protection and health insurance, and that the minimum hours that the occupational medicine specialist is required to be present at the workplace shall be stipulated in an Ordinance. In this respect, the Committee notes the observations of the

UATUC and the NHS, stating that, as of 2016, the Ministry of Health had not adopted regulations prescribing elements such as the minimum hours the occupational medicine specialist has to spend at the workplace, or the procedures for administering first aid. The Committee also notes the Government's indication that the occupational medicine specialist's participation in risk assessments at the workplace is not prescribed by national legislation, and that experience indicates that the employer rarely consults occupational medicine specialists during such assessments in practice, even though *Article 5(a)* of the Convention prescribes that the functions of occupational health services shall include the identification and assessment of the risks from health hazards in the workplace. In addition, section 20 of the Health Care Act (as amended) sets out types of healthcare that fall within the category of specific healthcare for workers, but provides that the content of measures on specific healthcare of workers and the method for implementing them shall be laid down by the Minister of Health in an Ordinance at the proposal of the CIHPSW, subject to prior approval by the Minister of Labour and the Pension System. The UATUC and NHS indicate, however, that these measures have not been prescribed. ***Noting that the OSH Act 2014 does not directly give effect to the majority of the provisions of Article 5 and requires the adoption of special regulations that have yet to be adopted, the Committee urges the Government to provide the information on the measures taken to give full effect to Articles 5 and 6 of the Convention. The Committee further requests the Government to indicate whether measures have been taken to adopt special regulations concerning occupational health activities and the plan and programme of health protection measures, as envisaged by section 81 of the OSH Act 2014, as well as the Ordinances referred to in section 20 of the Health Care Act. The Committee requests the Government to provide the list of such regulations where they have been adopted.***

B. Protection from specific risks

Asbestos Convention, 1986 (No. 162)

Effective compensation of workers of the Salanit factory. In its previous comments, the Committee requested information regarding the application in practice of the Law on compensation of workers employed with Salanit d.d. (No. 84/11), pursuant to which workers employed in the Salanit factory (which manufactured asbestos products) when it declared bankruptcy in 2006 could apply for compensation within 60 days (section 2). In this regard, the Committee notes the Government's indication in its report that the payment to the workers of compensation due to job loss was planned in instalments over two years in 2011 and 2012. The Committee notes with *interest* the Government's indication that all requests for compensation have been resolved, with all 170 workers from the Salanit factory being compensated where they were eligible for compensation and had submitted a request to the Fund for Environmental Protection and Energy Efficiency. The Committee also notes the information provided by the Government regarding the establishment of an Ad-hoc Commission for Complaints to deal with appeals against the decisions taken by the Fund, consisting of representatives from the Ministry for Environmental Protection, Physical Planning and Construction, Ministry of Economy, Labour and Entrepreneurship, Ministry of Finance, Ministry of Justice and Fund for Environmental Protection and Energy Efficiency. ***The Committee requests the Government to continue to provide information on any developments regarding this issue, including the number of appeals launched, and on the decisions taken by the Ad-hoc Commission for Complaints.***

The Commission for Settling Claims for Compensation by Workers Suffering from Occupational Diseases Due to Exposure to Asbestos (the Commission). The Committee notes the information provided by the Government that, since the establishment of the Commission in 2007 until mid-2016, 1,318 claims had been resolved (1,072 resulting in compensation), 22 were pending before the courts, and 245 were yet to be resolved. The Committee notes the observations by the UATUC and the NHS, which provide different statistics regarding resolved and unresolved claims for compensation. The Committee also notes an absence of information regarding measures taken to raise the awareness of workers regarding possibilities for seeking redress. ***The Committee requests the Government to continue to ensure that all claims and requests for compensation by workers suffering from an occupational disease due to exposure to asbestos during the course of their employment are handled as expeditiously as possible. It requests the Government to provide information on progress in this respect, as well as on the measures taken to raise the awareness of such workers regarding the possibilities for seeking redress.***

Application of the Convention in practice. The Committee notes the information provided by the Government regarding the registry of the CIHPSW on asbestos-induced occupational diseases, which are published annually online and includes up-to-date data and statistics on asbestos-induced diseases, broken down by geographical distribution, types of disease, gender, age, types of education and training and other metrics. The Committee notes that, according to the data of the CIHPSW, 89 cases of asbestos-induced occupational illnesses were registered in 2017, of which 79 (88.8 per cent) were men and ten (11.2 per cent) were women. In addition, the Committee notes that, according to the data of the CIHPSW, the percentage of occupational diseases caused by exposure to asbestos in 2017 was 52 per cent (89 out of 172 recorded cases). ***Noting the percentage, which remains high, of occupational diseases caused by asbestos, the Committee urges the Government to strengthen its efforts to ensure the medical surveillance in practice of workers that are or have been exposed to asbestos. The Committee further requests the Government to continue to provide information regarding the application of this Convention in practice, including any measures taken at the institutional level in the application of the Convention. In addition, the Committee requests the Government to provide information regarding the application in practice of the prohibition on the usage of asbestos and asbestos-containing materials in Croatia, which entered into force on 1 January 2006.***

The Committee is raising other matters in a request addressed directly to the Government.

Guyana

Occupational Cancer Convention, 1974 (No. 139) (ratification: 1983)

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2016.

The Committee notes that draft Regulations on the safe use of chemicals at work of 31 January 2003 are currently being discussed. It notes the Government's statement that these draft Regulations provide protection against occupational cancer and also that it refers to the international exposure limits standard established by the American Conference of Governmental Industrial Hygienists. The Committee further notes that Chapter 3.6 of Annex 2 of the draft Regulations contains rules applicable to carcinogenicity and also notes the Government's statement that these draft Regulations will attempt to provide for medical examinations. The Committee hopes that these Regulations will be adopted in the near future, ensuring the application of the Convention, and that they will also ensure that medical examinations or biological or other tests or investigations are carried out during the period of employment and thereafter, in accordance with *Article 5 of the Convention*. **The Committee requests the Government to provide information on measures taken to ensure the application of the Convention and to provide a copy of the Regulations, once they are adopted.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

San Marino

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1988)

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2009.

Article 4. Prevention and control of, and protection against, occupational hazards; Article 8. Establishing criteria for determining hazards due to exposure to air pollution, noise and vibration and exposure limits; Article 9. Technical measures to ensure that the working environment is free from any hazard due to air pollution, noise and vibration; and Article 10 of the Convention. Personal protective equipment. The Committee notes that according to the Government's report the definition of the relevant benchmark technical standards with regard to air pollution more generally and vibration, is still pending and that the criteria determining when personal protective equipment is to be provided is directly related to these benchmark technical standards. **The Committee reiterates its hopes that the technical standards that are reportedly in preparation will be adopted in the near future and asks the Government to provide information on the progress made and copies of them once they have been adopted.**

Article 5. Consultations between the competent authority and the most representative organizations of employers and workers. The Committee welcomes the information provided concerning the extensive consultations held between the Department of Public Health and the most representative organizations of employers and workers on measures to be taken to improve occupational safety and health conditions in small enterprises resulting in the adoption of Decree No. 4 of 14 January 2008 revising Annex I of Decree No. 123/2001. **The Committee requests the Government to provide information on the practical application of this decree.**

Article 11(3). Alternative employment or other measures to maintain the income of transferred workers. The Committee notes with interest the detailed guidelines on the application of the medical supervision based on Law No. 31/98 and subsequent legislation issued on 20 December 2002 following a thorough process of consultation. This guideline expressly refers to the Occupational Health Services Convention, 1985 (No. 161), and sets out detailed instructions on the way medical examinations have to be done as well as on the legal and medical obligations resulting from this examination. It also notes that workers who show reduced capacity for work in relation to the work performed have the possibility to be employed in protected activities in the state integrating sites (*Cantieri Integrativi dello Stato*). It also notes that according to article 9 of Decree No. 15/2006, the workers included in the Decree could be employed by the public administration in the terms fixed in the agreement between the State and the union. **The Committee asks the Government to indicate if the alternative employment referred to is only for workers with disabilities or if it also covers the situation in which exposure to air pollution, noise or vibration is found to be medically inadvisable, even in cases where there is no disability. The Committee also asks the Government to provide information on cases where alternative employment or other measures to maintain the income of transferred workers have been provided in relation to this Article of the Convention.**

Article 16. Penalties and inspection service. Application in practice. The Committee notes the statistical information provided by the Government containing information on the inspections carried out and the following findings: 21 infringements in large enterprises; four in medium enterprises; and one in small enterprises. **The Committee requests the Government to provide information regarding the measures taken to address these trends and continue to provide detailed information on the application of the Convention in practice, including statistical information disaggregated by sex, if possible; on the number of workers covered by relevant legislation; and the number and nature of contraventions reported.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Sierra Leone

Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 1997.

For a number of years, the Committee has drawn the attention of the Government to the fact that the national legislation does not contain provisions to give effect to Part II of the Convention (prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery) and that it does not provide for the full application of Article 17 of the Convention

(which applies to all sectors of economic activity), as it is not applicable to certain branches of activity, inter alia, sea, air or land transport and mining.

Since 1979, in reply to the Committee's comments, the Government has indicated in its reports that a Bill to revise the 1974 Factories Act was being drafted and would contain provisions consistent with those of the Convention, and would apply to all the branches of economic activity. In its latest report (received in 1986), the Government indicates that the draft Factories Bill, 1985, has been examined by the competent parliamentary committee and is to be submitted to Parliament for adoption.

With its report for the period ending 30 June 1991, the Government supplied a copy of extracts of the Factories Bill containing provisions which should give effect to Part II of the Convention. In this connection, the Government was requested to indicate the stage of the legislative procedure reached by the Bill and the body which was in the process of examination of the Bill. *Since no information has been provided by the Government in this respect, the Committee once again expresses the hope that the abovementioned Bill will be adopted in the near future and requests the Government to provide a copy of this text, once it has been adopted.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Ukraine

Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2011)

Articles 5(1) and 16 of the Convention. Supervision of safety and health in mines, corrective measures and enforcement. The Committee notes that the State Labour Service (SLS) was created in 2014 and has assumed the functions of the former State Service of Mining Supervision. In this respect, the Committee refers its comments made this year under the Labour Inspection Convention, 1947 (No. 81), and the Inspection (Agriculture) Convention, 1969 (No. 129), concerning several restrictions on the powers of labour inspectors. The Committee notes that during the discussions in the Conference Committee on the Application of Standards on the application of Conventions Nos 81 and 129 by Ukraine in 2017 and 2018, some speakers indicated that the moratorium on labour inspection had particularly affected workers in mines, and that although inspections in mines had increased following a serious mining incident in March 2017 in western Ukraine (in which eight mining workers died and more than 20 were seriously injured), no information was available on the measures taken as a result of the great number of violations of safety and health standards in mines. The Committee also notes the information of 2016 contained in the observations made by the Confederation of Free Trade Unions of Ukraine (KVPU) on the application of the Protection of Wages Convention, 1949 (No. 95) received 31 August 2018, that the level of injuries at coal mining workplaces had increased by 40 per cent and the rate of fatal injuries had risen by 2.5 per cent. The Committee notes from the information provided by the Government to the ILO that in 2017, mining accounted for 18.9 per cent of the country's work-related accidents, with 936 people were injured and 33 killed. *Referring to its comment under Conventions Nos 81 and 129, the Committee requests the Government to provide information on the number of inspections undertaken in mines, the number of non-compliance issues detected and the issues to which they relate, as well as the remedial measures ordered and penalties imposed.*

Articles 5(2)(c) and (d), 7 and 10(d). Procedures for investigating fatal and serious accidents and the compilation and publication of statistics. Appropriate remedial measures and measures taken to prevent future accidents by employers as a result of investigations. In its previous comment, the Committee noted that, in 2012, 3,654 workers were injured in mining accidents resulting in 125 deaths, and that 78.5 per cent of these accidents were due to organizational factors, 11.7 per cent to technical reasons and 9.8 per cent to psychological and other reasons. The Committee notes from the statistics on mining accidents provided by the Government in response to the Committee's previous request that in 2014, in coal mines there were 2,034 occupational accidents with 99 fatalities, and in metal and non-metal mines, 220 work accidents, with 12 fatalities. The Committee also notes the information provided by the Government, in response to the Committee's previous request concerning the procedure for the investigation of accidents, about the procedure for investigating and reporting accidents, occupational diseases and industrial incidents in the workplace, approved by Decision No. 1232 of the Cabinet of Ministers of 2011, which includes the obligation of employers to investigate accidents, analyse their causes and take measures to prevent future accidents. The Government also indicates that the State Labour Service undertakes a special investigation in the event of a fatal or serious accident, a group accident (an accident involving two or more people simultaneously), the disappearance of a worker while carrying out his or her duties, or the death of a worker in the workplace. However, the Committee notes that the Government has not provided the requested information on the measures taken to address the causes of accidents and the results of these measures. *Since such information has not been provided, the Committee once again requests the Government to provide: (i) detailed information on the outcome of the procedures to investigate fatal and serious accidents, dangerous occurrences and disasters; (ii) information in relation to the various factors (organizational, technical and psychological) identified as causing these accidents; and (iii) information on the measures taken to address these causes and their results, including any corrective safety and health measures taken or contemplated. The Committee also requests the Government to continue to provide information on the incidence of occupational accidents, including fatal accidents, and also provide information on occupational diseases and dangerous occurrences.*

The Committee is raising other matters in a request addressed directly to the Government.

Uruguay

Asbestos Convention, 1986 (No. 162) (ratification: 1995)

The Committee notes the observations made by the Inter-Union Assembly of Workers–Workers’ National Convention (PIT–CNT) transmitted by the Government.

Articles 3 and 5 of the Convention. Measures for the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos. Effective enforcement. In its previous comment, the Committee noted with regret, that although Decree No. 154/002 of 2002 prohibits the manufacture, import and commercialization of asbestos, the Government had still not given full effect to most of the provisions of the Convention. In response to this comment, the Committee notes the Government’s reference in its report to Decree No. 125/014 of 2014 concerning safety and health in construction, which the Committee observes provides for preventive measures in that sector, but makes no specific reference to asbestos. The Committee also notes the observations made by the PIT–CNT that in practice, the application of Decree No. 154/002 is not sufficiently ensured through effective controls, for instance in the reparation or substitution of the insulation of roofs. ***The Committee once again requests the Government to adopt the necessary measures to give full effect to the Convention, as regards the issues raised in its direct request concerning Articles 20(2) and (3) and 21(3) and below concerning the issues raised under Articles 17, 19, and 22(2). It also requests the Government to provide information on the inspections undertaken to control the prohibition of asbestos, as well as measures taken to ensure the protection of all workers who may be exposed to asbestos in the course of work, including measures taken concerning workers engaged in roofing and insulation work.***

Article 17. Demolition of plants and structures containing asbestos and removal of asbestos. The Committee notes that while Chapter VII of Decree No. 125/014 concerning safety and health in construction provides for safety and health requirements with regard to demolition work, it does not contain any provisions specifically referring to asbestos. ***The Committee requests the Government to take the necessary measures to ensure that the demolition of plants or structures containing friable asbestos insulation materials, and removal of asbestos from buildings or structures in which asbestos is liable to become airborne, are undertaken only by employers or contractors who are recognized by the competent authority as qualified to carry out such work. The Committee also requests the Government to ensure that employers or contractors shall be required to draw up a workplan before undertaking such specific demolition work, in consultation with workers or their representatives.***

Article 19. Handling of asbestos waste. ***As the Government has once again not provided a reply on this point, the Committee requests the Government to take the necessary measures to ensure that employers shall dispose of waste containing asbestos in a manner that does not pose a health risk to the workers concerned, including those handling asbestos waste, or to the population in the vicinity of the enterprise. It also requests the Government to ensure that appropriate measures are taken by the competent authority and by employers to prevent pollution of the general environment by asbestos dust released from the workplace.***

Article 22(2). Requirement for employers to establish written policies and procedures for the education and periodic training of workers on hazards due to asbestos. The Committee notes that Decree No. 125/014 concerning safety and health in construction provides, among other things, for the obligation of employers to train workers on the existing risks in workplaces in construction and on the necessary preventive measures, without making specific reference to asbestos. ***The Committee once again requests the Government to take the necessary measures to give full effect to Article 22(2) of the Convention by ensuring that employers have established written policies and procedures on measures for the education and periodic training of workers on asbestos hazards and methods of prevention and control.***

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 13** (Central African Republic); **Convention No. 45** (Croatia, Guinea, Nigeria); **Convention No. 62** (Central African Republic); **Convention No. 115** (Kyrgyzstan); **Convention No. 119** (Central African Republic, Democratic Republic of the Congo, Ghana, Kyrgyzstan, Tajikistan); **Convention No. 120** (Central African Republic, Democratic Republic of the Congo, Indonesia, Kyrgyzstan, Tajikistan); **Convention No. 127** (Hungary); **Convention No. 136** (Plurinational State of Bolivia, Zambia); **Convention No. 139** (Croatia); **Convention No. 148** (China: Macau Special Administrative Region, Croatia, Finland, Hungary, Kyrgyzstan, Tajikistan); **Convention No. 155** (Antigua and Barbuda, Argentina, Belize, Central African Republic, China, China: Macau Special Administrative Region, Croatia, El Salvador, Gabon, Grenada, New Zealand, Tajikistan, Zambia); **Convention No. 161** (Croatia, Hungary); **Convention No. 162** (Australia, Plurinational State of Bolivia, Croatia, Serbia, The former Yugoslav Republic of Macedonia, Uganda, Uruguay); **Convention No. 167** (Plurinational State of Bolivia, China, China: Macau Special Administrative Region, Gabon, Norway, Turkey); **Convention No. 170** (China, Finland); **Convention No. 174** (Finland); **Convention No. 176** (Turkey, Ukraine, Uruguay, Zambia); **Convention No. 184** (Belgium, Ghana, Kyrgyzstan); **Convention No. 187** (Argentina, Dominican Republic, France, France: New Caledonia, Indonesia, Norway, Slovenia, Turkey, Zambia).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 13** (*Croatia*); **Convention No. 119** (*Croatia*); **Convention No. 120** (*Plurinational State of Bolivia*); **Convention No. 136** (*Croatia*).

Social security

Antigua and Barbuda

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1983)

For several years, the Committee has been underlining the non-application or partial application of some of the provisions of the Convention. The Committee recalls that in previous reports the Government had expressed its intention to modernize the Workmen's Compensation Ordinance No. 24 of 1956. The Committee notes that the Government states in its report that it will act according to the Committee's requests. The Committee therefore hopes that the Government will take the necessary measures as described below.

Article 5 of the Convention. Compensation in the form of a lump sum. The Committee requests the Government to amend section 8 of the Ordinance so as to ensure that the compensation due in the event of accidents causing permanent incapacity shall be paid in the form of periodical payments, or exceptionally in a lump sum if the competent authority is satisfied that it will be properly utilized.

Article 7. Additional compensation for assistance by a third person. The Committee requests the Government to amend section 9 of the Ordinance in order to grant additional compensation for victims of work injuries who need the assistance of a third person in cases of permanent incapacity, and not only in cases of temporary incapacity.

Article 9. Medical and pharmaceutical treatment. The Committee requests the Government to amend section 6(3) of the Ordinance, so as not to prescribe any limit to the expenses and costs of medical treatment undergone by a worker as a result of an occupational accident for which the employer is responsible and include an express provision for coverage of related surgical and pharmaceutical costs.

Article 10. Provision of surgical appliances and artificial limbs in general. The Committee requests the Government to take the necessary measures to amend section 10 of the Ordinance so as to provide for surgical appliances and artificial limbs in all cases in which they are necessary, and not only with a view to improving the earning capacity of the person concerned.

The Committee has been informed that, based on the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM TWG), the Governing Body has decided that member States for which the Convention is in force should be encouraged to ratify the more recent Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), or the Social Security (Minimum Standards) Convention, 1952 (No. 102) (Part VI) (see GB.328/LILS/2/1). Conventions Nos 121 and 102 reflect the more modern approach to employment injury benefits.

The Committee therefore encourages the Government to follow up the Governing Body's decision at its 328th Session (October–November 2016) approving the recommendations of the SRM TWG and to consider ratifying Conventions Nos 121 and/or 102 (Part VI) as the most up-to-date instruments in this subject area.

Armenia

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 2004)

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18) (ratification: 2005)

The Committee notes the observations of the Confederation of Trade Unions of Armenia (CTUA) and of the Republican Union of Employers of Armenia (RUEA) communicated with the Government's report. In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on Workmen's Compensation, the Committee considers it appropriate to examine Convention No. 17 (Accidents) and Convention No. 18 (Occupational diseases) in a single comment.

Workmen's Compensation (Accidents) Convention, 1925 (No. 17)

Article 11 of the Convention. Compensation of industrial accidents in the event of the insolvency of the employer or insurer. In its previous comments, the Committee made reference to the observations submitted by the CTUA in June 2013, describing the issue of about 800 workers employed by companies liquidated after 2004 who, following the adoption of Governmental Decision No. 1094-N of 2004, had been paid no compensation in case of employment accidents or occupational diseases which had occurred between 2004 and 2009. The Committee notes that, in its report, the Government states that this issue is under its attention, and it is envisioned to elaborate mechanisms that guarantee adequate compensation for persons who have a right to, and who have not, received compensation for the injuries caused by industrial accidents and occupational diseases. Recalling that, under the Convention, compensation to workers in the event of the insolvency of the employer or insurer must be paid in all circumstances, the Committee requests the

Government to take the necessary measures without further delay to ensure that the workers concerned are duly compensated and to provide information in this regard.

Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)

Application of the Convention in practice. The Committee notes the information provided by the Government, which answers the points raised in its previous direct request. **The Committee requests the Government to provide up-to-date statistical information on the number of workers that were affected by the three types of occupational diseases (poisoning by lead, poisoning by mercury and anthrax infection) covered by the Convention.**

The Committee has been informed that, based on the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM TWG), the Governing Body has decided that member States for which the Conventions are in force should be encouraged to ratify the more recent Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), or the Social Security (Minimum Standards) Convention, 1952 (No. 102) (Part VI) (see GB.328/LILS/2/1). Conventions Nos 121 and 102 reflect the more modern approach to employment injury benefits and occupational diseases. In this regard, the Committee notes that in previous reports the Government had expressed the intention of introducing a mandatory social insurance scheme for occupational accidents and diseases. **The Committee therefore encourages the Government to follow up the Governing Body's decision at its 328th Session (October–November 2016) approving the recommendations of the SRM TWG and to consider ratifying Conventions Nos 121 and/or 102 (Part VI) as the most up-to-date instruments in this subject area.**

[The Government is asked to reply in full to the present comments in 2020.]

Barbados

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1974)

The Committee notes with **regret** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

With reference to its previous comments, the Committee notes with **satisfaction** the adoption of the National Insurance and Social Security (Benefit) (Amendment) Regulations, 2006 (SI 2006 No. 130), by which section 59 of the principal Regulations of 1967 was replaced by the new text which permits payment of benefits abroad to persons who are residing in another country, in accordance with *Article 5 of the Convention*. **The Government is invited to provide information in its next report on actions taken to implement the new Regulations, including any related judicial or administrative decisions.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Djibouti

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1978)

The Committee notes with **regret** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Article 1(2) of the Convention. **Equality of treatment in relation to compensation for industrial accidents.** Ever since the Convention was ratified in 1978, the Committee has been drawing the Government's attention to the need to amend section 29 of Decree No. 57-245 of 1957 concerning compensation for industrial accidents and occupational diseases in order to bring the national regulations into conformity with *Article 1(2)* of the Convention, according to which the nationals of States that have ratified the Convention and their dependants must receive the same treatment as Djibouti grants to its own nationals in respect of accident compensation. Under the terms of the Decree No. 57-245 of 1957, unlike nationals, foreign workers injured in industrial accidents who transfer their residence abroad no longer receive a periodic payment but a lump-sum payment equal to three times the periodic payment they received previously. The Committee notes that the Government refers in its report to Act No. 154/AN/02/4ème-L of 31 December 2002 codifying the functioning of the Social Protection Institute (OPS) and the general retirement scheme for employees, indicating that the Act does not prescribe different treatment for national and foreign employees and their dependants with regard to compensation for industrial accidents and, in accordance with the Convention, does not impose any residence requirement for foreign workers to be entitled to benefits. The Committee observes, however, that the abovementioned Act does not primarily deal with periodic payments for industrial accidents but rather with the issue of those payments being combined with retirement benefits. It further observes that, in its report on the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Government continues to refer to the provisions of Decree No. 57-245 of 1957 in the context of the regulations governing periodic payments for industrial accidents. **In view of the above, the Committee again requests that the Government amend section 29 of Decree No. 57-245 of 1957 so as to bring the national legislation into full conformity with Article 1(2) of the Convention.**

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1978)

The Committee notes with **regret** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Article 1 of the Convention. Setting up a system of compulsory sickness insurance. The Committee notes that Act No. 212/AN/07/5ème-L establishing the National Social Security Fund (CNSS) provides that new complementary social instruments such as sickness insurance will be instituted by means of regulations (section 5 of the Act). It also notes the adoption of Act No. 199/AN/13/6ème-L of 20 February 2013 extending treatment coverage to self-employed workers and of Decree No. 2013-055/PR/MTRA of 11 April 2013 establishing CNSS registration procedures and contributions for self-employed workers. The Government states that these items of legislation are the precursor to establishing a universal sickness insurance system in Djibouti in the near future. ***The Committee hopes that once this insurance system is established it will cover the payment of sickness benefits to insured persons, which are currently covered by employers, contrary to the terms of the Convention. It requests the Government to keep it informed of any developments regarding the introduction of a universal sickness insurance system.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37) (ratification: 1978)

The Committee notes with **regret** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Establishment of a compulsory invalidity insurance scheme. With reference to its observation relating to the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Committee recalls that the national social protection system has been undergoing restructuring for a number of years, which involves the merger of various insurance funds in the interests of more efficient management. In this context, although the social protection system has no specific branch for invalidity benefits, the Government indicates that Act No. 154/AN/02/4ème-L of 31 January 2002 codifying the operation of the Social Protection Institute (OPS) and the general retirement scheme for salaried employees, contains several provisions that authorize workers aged 50 years and over who are affected by a permanent physical or mental impairment to claim an early retirement pension when they have accrued a minimum of 240 contribution months (section 60 ff.). The Committee emphasizes that, even though it is justified in the context of early retirement, the fixing of a minimum age at which a person can receive invalidity benefit, as set forth by Act No. 154, is in breach of *Article 4 of Convention No. 37* and the Invalidity Insurance (Agriculture) Convention, 1933 (No. 38). Moreover, the length of the qualifying period for entitlement to invalidity benefit must not, according to *Article 5(2) of Conventions Nos 37 and 38*, exceed 60 contribution months. ***In view of the failure of these provisions to give effect to the main requirements of Conventions Nos 37 and 38, the Committee requests the Government to carry out the feasibility studies needed to establish an invalidity insurance scheme.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Invalidity Insurance (Agriculture) Convention, 1933 (No. 38) (ratification: 1978)

The Committee notes with **regret** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Establishment of a compulsory invalidity insurance scheme. With reference to its observation relating to the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Committee recalls that the national social protection system has been undergoing restructuring for a number of years, which involves the merger of various insurance funds in the interests of more efficient management. In this context, although the social protection system has no specific branch for invalidity benefits, the Government indicates that Act No. 154/AN/02/4ème-L of 31 January 2002 codifying the operation of the Social Protection Institute (OPS) and the general retirement scheme for salaried employees, contains several provisions that authorize workers aged 50 years and over who are affected by a permanent physical or mental impairment to claim an early retirement pension when they have accrued a minimum of 240 contribution months (section 60 ff.). The Committee emphasizes that, even though it is justified in the context of early retirement, the fixing of a minimum age at which a person can receive invalidity benefit, as set forth by Act No. 154, is in breach of *Article 4 of Convention No. 37* and the Invalidity Insurance (Agriculture) Convention, 1933 (No. 38). Moreover, the length of the qualifying period for entitlement to invalidity benefit must not, according to *Article 5(2) of Conventions Nos 37 and 38*, exceed 60 contribution months. ***In view of the failure of these provisions to give effect to the main requirements of Conventions Nos 37 and 38, the Committee requests the Government to carry out the feasibility studies needed to establish an invalidity insurance scheme.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Guinea

Equality of Treatment (Social Security) Convention, 1962 (No. 118) (ratification: 1967)

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

Article 5 of the Convention. Payment of benefits in the case of residence abroad. Referring to its previous comments, the Committee notes with **interest** the conclusion in 2012 of the Economic Community of West African States (ECOWAS) General Convention on Social Security, which aims in particular to enable migrant workers who have worked in one of the 15 ECOWAS member States to exercise their right to social security in their country of origin through the coordination of national social security systems. ***However, since Cabo Verde is the only other ECOWAS member State that has ratified Convention No. 118, the Committee requests the Government once again to indicate whether, as it understands from its reading of section 91 of the Social Security Code, nationals of any State that has accepted the obligations of the Convention for the corresponding branch should in principle be able to claim payment of their benefits in the case of residence abroad. If so, the Committee requests the Government to indicate whether a procedure for the transfer of benefits abroad has been established by the National Social Security Fund to meet any requests for the transfer of benefits abroad. In addition, the Committee requests***

the Government to clarify whether any Guinean nationals transferring their residence abroad would also be entitled to have their benefits transferred abroad, in accordance with the principle of equal treatment established under Article 5 of the Convention.

Article 6. Payment of family benefit. Referring to the comments it has been formulating for many years regarding the provision of family allowances in respect of children residing abroad, the Committee notes that, under section 94(2) of the Social Security Code, to be entitled to family benefit, dependent children “must reside in the Republic of Guinea, subject to the special provisions of the international Conventions on social security of the International Labour Office, reciprocal agreements or bilateral or multilateral agreements”. With respect to reciprocal agreements or bilateral or multilateral agreements, the Committee recalls that to date Guinea has concluded no agreement of this sort for the payment of family allowances in respect of children residing abroad. Regarding the special provisions of the ILO Conventions, it recalls that under *Article 6* of Convention No. 118 any State which has accepted the obligations of the Convention for branch (i) (family benefit) must guarantee payment of family allowances both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention for that branch, as well as for refugees and stateless persons, in respect of children who reside on the territory of any such State, under conditions and within limits to be agreed upon by the States concerned. *The Committee notes that the Government’s report does not provide any information in this respect and hopes that the Government will be able to confirm formally in its next report that the payment of family benefit will also be extended to cover insured persons up to date with their contributions (whether they are nationals, refugees, stateless persons or nationals of any other States which have accepted the obligations of the Convention for branch (i)) whose children reside in the territory of one of these States and not in Guinea. The Committee also requests information as to how the condition of residence is dispensed with in these cases for the application of section 99(2) of the Code, which only recognizes as dependent those children “that live with the insured person”, and also for section 101, which makes payment of family allowances subject to an annual medical examination of the child, up to the age where he or she comes under the school medical service, and the regular medical care for beneficiaries of school age attending courses in educational or vocational training establishments.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Haiti

Workmen’s Compensation (Agriculture) Convention, 1921 (No. 12)
(ratification: 1955)

Workmen’s Compensation (Accidents) Convention, 1925 (No. 17)
(ratification: 1955)

Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1955)

Sickness Insurance (Agriculture) Convention, 1927 (No. 25)
(ratification: 1955)

Workmen’s Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1955)

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 30 August 2017 and 29 August 2018, and the observations of the Association of Haitian Industries (ADIH), received on 31 August 2018, concerning the application of ratified Conventions on social security. The Committee notes with *deep concern* that the Government’s reports for Conventions Nos 12, 17, 24, 25 and 42 have not been received. While it is therefore bound to repeat its previous comments initially made in 2012, the Committee notes the Government’s communication received on 30 October 2018 in which it informs the Committee that, further to the conclusions of the Conference Committee on the Application of Standards, it has requested ILO technical assistance with a view to helping in the presentation of the reports due, strengthening the inspection services, consolidating social dialogue for the continuation of social reforms, and addressing the other points raised by the Conference Committee. The Government adds that it hopes to receive the requested assistance before the next session of the International Labour Conference. *The Committee hopes that this technical assistance will be provided without delay and that it will give rise to timely delivery of all outstanding reports. It also requests the Government to send its comments on the observations of the CTSP and the ADIH.*

The Committee notes the observations made by the Confederation of Public and Private Sector Workers (CTSP), received on 31 August 2016, by which it reiterated most of the issues raised previously, indicating that, even though some state efforts to increase the coverage of the insurance have been visible, these were focused on the capital city, leaving apart the people living in rural areas.

The Committee notes that on 15 September 2015 the Confederation of Public and Private Sector Workers (CTSP) provided its observations concerning the application of the Conventions under examination. The CTSP indicates that the affiliation of employers to the Employment Injury, Sickness and Maternity Insurance Office (OFATMA), although a legal obligation, is a reality in practice for less than 5 per cent of workers. In the specific case of agricultural workers, the CTSP considers that it is necessary to take urgent measures to extend effective coverage by the OFATMA, as they represent the majority of workers in the country and produce 30 per cent of the gross domestic product, and yet they remain without any social protection.

The Committee is fully aware that the Government indicated in its last report that the Act of 28 August 1967, establishing the OFATMA, covers all dependent workers irrespective of their sector of activity, but that the absence of formal agricultural enterprises means that most agricultural workers are engaged in family subsistence agriculture and are excluded from the scope of

the social security legislation. Nevertheless, the Committee observes that the application of the existing legislation appears to give rise to difficulties, even with regard to workers in the formal economy. Moreover, the sickness insurance scheme has never been established, even though the Government has indicated that it is pursuing its efforts to establish progressively a sickness insurance branch covering the whole of the population and to enable OFATMA to regain the trust of the population.

With a view to better assessing the challenges facing the country in the application of the social security Conventions and providing better support for the initiatives taken in this respect, the Committee requests the Government to provide further information in its next report concerning the functioning of the employment injury scheme administered by OFATMA (numbers covered, amount of contributions collected annually, number of employment accidents and occupational diseases recorded, amount of benefits paid for employment injury). Please include information on strategies for increasing participation in and utilization of OFATMA services by the eligible populations.

International assistance. The Committee notes that the Government is receiving substantial support from the ILO and the international community, particularly in the field of labour inspection. Moreover, since 2010, the ILO and the United Nations system as a whole have made available to the Government their expertise for the establishment of a social protection floor. The Committee considers that it is necessary for the Government to envisage as a priority the establishment of mechanisms to provide the population as a whole, including informal workers and their families, with access to essential health care and a minimum income when their earnings capacity is affected as a result of sickness, employment accident or occupational disease. In this regard, the International Labour Conference adopted the Social Protection Floors Recommendation (No. 202) in 2012, with a view to the establishment of basic social security guarantees to prevent and alleviate poverty, vulnerability and social exclusion. In this connection, the implementation of Conventions and of Recommendation No. 202 should continue in parallel, seeking and exploiting synergies and complementarity.

The Committee recalls that the establishment of a social protection floor was included by the Haitian Government as one of the elements of the Action Plan for National Recovery and Development of Haiti, adopted in March 2010. However, the Government has not yet provided any information on the measures adopted to achieve this objective. The Committee notes, among other matters, the conclusion in 2010 of a national programme for the promotion of decent work which includes an item dedicated to the establishment of the social protection system under the social security Conventions ratified by Haiti.

Conclusions and recommendations of the Standards Review Mechanism. The Committee notes that, at its 328th Session in October 2016, the Governing Body of the ILO adopted the conclusions and recommendations formulated by the Standards Review Mechanism Tripartite Working Group (SRM TWG), recalling that Conventions Nos 17, 24, 25 and 42 to which Haiti is party are outdated and charging the Office with follow-up work aimed at encouraging States party only to these Conventions to ratify the following instruments as they represent the most up-to-date standards:

- As regards employment injury: the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102) and accept the obligations in its Part VI.
- As regards medical care and sickness benefit: the Medical Care and Sickness Benefits Convention, 1969 (No. 130) and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Parts II and III.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Kenya

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1964)

Legislative reform. In its previous comments, the Committee noted the Government's indication that it was in the process of amending the Work Injury Benefits Act, 2007 (WIBA, 2007). It notes that the Government indicates in its report that it has put effort towards development of a new legislation that will address the gaps in the current law and replace the WIBA and that the Bill is yet to be tabled in Parliament. ***The Committee hopes that this new piece of legislation will take duly into account the comments it has been providing in order to give full application to the Convention.***

Article 5 of the Convention. Payment of compensation for permanent incapacity or death in the form of periodical payments. In its previous comments, the Committee noted that, in accordance with section 30 of the WIBA, 2007, an employee who suffers permanent disablement is entitled to a lump-sum payment equivalent to 96 months' earnings. It invited the Government to review the WIBA, 2007, so as to compensate victims of occupational accidents suffering permanent incapacity, or their dependants in cases of fatal accidents, with periodical payments and to reserve the compensation in the form of a lump sum only if the competent authority is satisfied that the lump sum will be properly utilized. The Committee notes that the Government does not indicate whether the new Bill will regulate a compensation in the form of a periodical payment. ***It therefore requests the Government to take advantage of the ongoing legislative reform to ensure full compliance with Article 5 and to provide information on progress made in the reform.***

Articles 9 and 10. Free of charge medical, surgical and pharmaceutical aid. In its previous comments, the Committee noted that section 47 of the WIBA, 2007, provides that an employer must defray reasonably incurred medical expenses which occurred after an occupational accident. The Government had indicated in previous reports that the term "reasonable expenses" would be defined on the occasion of the review of the WIBA, 2007, so as to include all medical intervention necessary. The Committee welcomes the Government's indication that Clause 55 of the Bill would contain a list of the expenses incurred by an employee as the result of an accident arising out of, and in the course of, the employee's employment to be defrayed by the employer.

Article 11. Compensation of industrial accidents in the event of the insolvency of the employer or insurer. The Committee notes that the WIBA, 2007, does not provide arrangements aiming to ensure in all circumstances, in the event

of the insolvency of the employer or insurer, the payment of compensation to workers who suffer personal injury due to industrial accidents. *The Committee requests the Government to take the necessary measures in the context of the ongoing legislative reform to ensure that provision is made for the payment of compensation to the victims of occupational accidents in case of insolvency of the employer.*

The Committee has been informed that, based on the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM TWG), the Governing Body has decided that member States for which the Convention is in force should be encouraged to ratify the more recent Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), or the Social Security (Minimum Standards) Convention, 1952 (No. 102) (Part VI) (see GB.328/LILS/2/1). Conventions Nos 121 and 102 reflect the more modern approach to employment injury benefits. *The Committee therefore encourages the Government to follow up the Governing Body's decision at its 328th Session (October–November 2016) approving the recommendations of the SRM TWG and to consider ratifying Convention No. 121 and/or Convention No. 102 (Part VI) as the most up-to-date instruments in this subject area.*

[The Government is asked to reply in full to the present comments in 2020.]

Malaysia

Peninsular Malaysia

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
(ratification: 1957)

Sarawak

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
(ratification: 1964)

Follow-up to the conclusions of the Committee on the Application of Standards ***(International Labour Conference, 107th Session, May–June 2018)***

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (CAS) in June 2018 concerning the application of the Convention. The Committee recalls that the discussion in the CAS has been based upon long-standing issues raised and comments made by the Committee, urging the Government to take the necessary measures with a view to re-establishing the principle of equal treatment between foreign and national workers in case of employment injury. The Committee observes that the CAS, in its conclusions, welcomed the Government's stated commitment to ensuring the Convention's requirement for equal treatment of migrant workers and national workers. The Committee observes that the CAS urged the Government to: (i) take steps to develop and communicate its policy for governing the recruitment and treatment of migrant workers; (ii) take immediate steps to conclude its work on the means for reinstating the equality of treatment of migrant workers, in particular by extending the coverage of the Employees' Social Security Scheme (ESS) to migrant workers in a form that is effective; (iii) engage in genuine consultations with employers' and workers' organizations to develop laws and regulations that ensure the removal of discriminatory practices between migrant and national workers, in particular in relation to workplace injury; (iv) adopt special arrangements with other ratifying member States to overcome the administrative difficulties of monitoring the payment of compensation abroad; and (v) take necessary legal and practical measures to ensure that migrant workers have access to medical care in the case of workplace injury. The CAS called on the Government to accept an ILO direct contacts mission with a view to implementing these recommendations and to develop mechanisms for overcoming the practical issues affecting the implementation of the domestic social security scheme to migrant workers. The Committee recalls that, in its previous comments, it has repeatedly drawn the attention of the Government to the fact that, since 1993, the national legislation provided for foreign workers employed in Malaysia for up to five years, to be transferred from the ESS, which provides for periodical payments to victims of industrial accidents, to the Workmen's Compensation Scheme (WCS), which guarantees only a lump-sum payment of a significantly lower amount. The Committee notes that in its reply the Government states that it is taking serious efforts to shift the protection of foreign workers from the WCS to the ESS to adhere to the principle of equal treatment for workers. The Committee notes the Government states it has agreed to extend the ESS, which will be under the Social Security Organization (SOCSO), to foreign workers. To this purpose, a transition period is envisaged to ensure the smooth extension, in order to to establish implementation mechanisms, databases, roadmaps and engagement sessions with stakeholders and social partners. The Committee notes the Government's indication, that the transition period is planned to last, at a maximum, for three years, due to three main factors, which are the following: (i) the SOCSO has just been recently tasked with the implementation of Employment Insurance System, which needs certain time for the funds to be at a sustainable stage, and to ensure the smooth operation of administrative matters related to Employment Insurance System. In addition, the existing Social Security Act 1969 will need to undergo certain amendments in its provision; (ii) existing contractual obligation with the insurance panels and system provider of the e-compensation scheme; and (iii) providing employers with ample time to adjust to the changes

that will occur with the shifting from the WCS to the ESS. The Committee welcomes the statement that the Government stands ready to take immediate action, including further deliberation and engagement with social partners from trade unions and employers' federation. The Committee welcomes the intention of the Government to seek technical assistance from the ILO. The Committee welcomes the Government has accepted the direct contacts mission which will take place in 2019. *The Committee firmly hopes that the Government will take advantage of the direct contacts mission with a view to implementing the conclusions by the CAS as well as its long-standing requests, so as to guarantee to foreign workers the fundamental right to equality of treatment with national workers in case of employment injury.*

[The Government is asked to reply in full to the present comments in 2019.]

Saint Lucia

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1980)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2011.

With reference to its previous observation, the Committee notes the reply of the Government that, contrary to *Article 7 of the Convention*, no provision is made in national legislation for the payment of additional compensation for injured workers requiring the constant help of another person; and that compensation for all expenses (medical, surgical or pharmaceutical, etc.) is limited to 20,000 East Caribbean dollars, whereas no such ceiling is foreseen in the Convention in case of occupational accident (*Articles 9 and 10 of the Convention*). The Committee *regrets* to note that since the entry into force of the Convention in 1980 the Government has been unable to bring the provisions of the national legislation in conformity with *Articles 7, 9 and 10 of the Convention*. *In this situation, the Committee deems it necessary to ask the Government to undertake an actuarial study which will determine the financial implications of the introduction into the national insurance scheme of the benefits guaranteed by these Articles of the Convention. The Committee wishes to remind the Government of the possibility to avail itself of the technical assistance of the Office in this respect.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Sierra Leone

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1961)

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2004.

The Committee notes that the country is mentioned in a special paragraph of the report of the Conference Committee on the Application of Standards for failure to supply information in reply to comments made by the Committee. *The Committee expects that the Government will be able to report on the application of Convention No. 17 soon and recalls that the technical assistance of the Office is at its disposal.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

United Republic of Tanzania

Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1962)

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1962)

The Committee notes with *interest* that the Government indicates in its report that the Workers Compensation Fund (WCF) is now operational and that the Workers' Compensation Regulations, 2016, have been adopted. In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on workmen's compensation, the Committee considers it appropriate to examine Conventions Nos 17 (accidents) and 19 equality of treatment (accident compensation) in a single comment.

Workmen's Compensation (Accidents) Convention, 1925 (No. 17)

Article 5 of the Convention. Lump-sum compensation in the event of permanent incapacity. The Committee noted in its previous comments that, according to section 49 of the Workers Compensation Act No. 20 of 2008, where a pension is less than the prescribed amount per month, the Director-General of the WCF may decide to pay a lump sum in lieu of the monthly pension for permanent disablement granted in accordance with section 48 of the Act. The Committee notes the Government's indication that the Workers' Compensation Regulations, 2016, have been adopted with a view to providing guidance for the implementation of the Act.

Article 6. Payment of compensation. In its previous comments, the Committee asked the Government to explain how and by whom the compensation is paid after the first month to injured workers. The Committee notes that the

Government indicates that, under sections 46(3) and 46(4) of the Workers Compensation Act, employers are liable for providing to the injured employee the compensation for temporary incapacity for the first month, and that thereafter all payments will be provided by the Fund. Furthermore, the Committee notes that the Government states that, in any case, the Fund has put in place a mechanism to ensure that such payments can be provided directly by the Fund including for the first month.

Article 7. Additional compensation. The Committee noted in its previous comments that the right to additional compensation in cases in which the injured worker must have the constant help of another person should not depend upon an administrative decision of the WCF, as provided for by section 51 of the 2008 Act. The Committee notes the information provided by the Government, informing that the Regulations, 2016, provide that the Director-General of the WCF will determine constant care grants through Guidelines, as foreseen by regulation 40(1) of the Workers' Compensation Regulations 2016. The Committee also notes that through the Public Service Social Security Fund Act, 2018, section 40(2) of the National Social Security Fund Act, 1997, which provided for an additional allowance of 25 per cent of the employment injury benefit to the helper in case the recipient of permanent disability benefit for employment injury needed the constant help of another person, has been repealed. ***The Committee asks the Government to take the necessary measures to include the legal rules concerning constant attendant care grants for temporary and permanent incapacity in the forthcoming Guidelines in order to give full effect to this provision of the Convention.***

Articles 9 and 10. Medical aid free of charge. Artificial limbs and appliances. In its previous comments, the Committee noted that according to section 62 of the Workers Compensation Act, 2008, the Fund shall pay the reasonable costs of medical aid required by an occupational accident for a maximum period of two years. The Fund may also pay the additional costs for further medical aid when it may reduce the incapacity. The Committee notes that the Government indicates that, under section 4 of the Act, a definition of medical aid including medical, surgical, hospital treatment, skilled nursing services as well as the supply and repair of any prosthesis or any devices necessitated, and ambulance service, is provided. The Committee also notes that the Government states that the Fund will provide surgical appliances, artificial limbs and pharmaceutical aid as part of the medical rehabilitation of the injured employee. The Government adds that the Committee's comments will be taken into account for the formulation of the Guidelines to be issued by the Director-General of the Fund, in accordance with the Workers' Compensation Regulations, 2016. ***The Committee asks the Government to ensure that the Guidelines will include the definition of reasonable medical costs, as well as the renewal of artificial limbs and surgical appliances to be provided free of charge.***

Article 11. Insolvency of the insurer. The Committee notes the information provided by the Government concerning the insolvency of the employer or insurer, which acknowledges that the Government is the guarantor in case of insolvency of the Fund, also by virtue of a constitutional obligation.

The Committee has been informed that, based on the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM TWG), the Governing Body has decided that member States for which Convention No. 17 is in force should be encouraged to ratify the more recent Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), or the Social Security (Minimum Standards) Convention, 1952 (No. 102) (Part VI) (see GB.328/LILS/2/1). Conventions Nos 121 and 102 reflect the more modern approach to employment injury benefits. ***The Committee therefore encourages the Government to follow up the Governing Body's decision at its 328th Session (October–November 2016) approving the recommendations of the SRM TWG and to consider ratifying Conventions Nos 121 and/or 102 (Part VI) as the most up-to-date instruments in this subject area.***

Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)

Article 1(2) of the Convention. Payment of accident compensation abroad. ***The Committee asks the Government to specify how the transfer abroad of cash benefits in case of industrial accidents is regulated as regards both nationals and foreigners and their dependants so as to ensure that nationals of other member States who have ratified the Convention receive the same treatment as the Government grants to its own nationals.***

With respect to the legislation applicable in Zanzibar, ***the Committee asks the Government whether it envisages to amend the Workmen's Compensation Act No. 15 of 1986 of Zanzibar which puts the liability for the payment of compensation directly on the employer, so as to harmonize it with the Workers Compensation Act No. 20 of 2008, which provides a social insurance scheme in case of employment injuries and occupation diseases.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 12** (Angola, Dominica, Guinea-Bissau); **Convention No. 17** (China: Macau Special Administrative Region, Djibouti, Guinea-Bissau, Kyrgyzstan, Uganda); **Convention No. 18** (Angola, Djibouti, Guinea-Bissau); **Convention No. 19** (Dominica, Guinea-Bissau, Indonesia, Saint Lucia); **Convention No. 42** (Solomon Islands); **Convention No. 102** (Barbados); **Convention No. 118** (Guinea); **Convention No. 121** (Guinea); **Convention No. 128** (Barbados); **Convention No. 157** (Kyrgyzstan).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 12** (*Antigua and Barbuda, Gabon, United Republic of Tanzania*); **Convention No. 19** (*China, China: Macau Special Administrative Region, Gabon, Kenya*); **Convention No. 42** (*Italy*).

Maternity protection

Equatorial Guinea

Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1985)

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2004.

With reference to its comments on the application of *Article 6 of the Convention*, the Committee notes that, like Act No. 8/1992, sections 111 and 112 of Act No. 2/2005 of 9 May 2005 on public servants allow women workers to be dismissed for gross misconduct following the appropriate disciplinary procedure. In previous reports, the Government indicated its intention to amend the legislation so that any misconduct by pregnant workers would give rise to a disciplinary procedure at the end of the period of maternity or postnatal leave. *The Committee hopes that the Government will take all the necessary measures to establish a formal prohibition on giving a public servant her notice of dismissal during her absence on maternity leave or at such time that the notice would expire during such absence.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Social policy

Jamaica

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1966)

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Parts I and II of the Convention. Improvements of standards of living. The Committee notes the Government's report received in October 2013, which indicates that the principal objective in the planning of economic development continues to be the realization of the improvement of standards of living. Moreover, the Government mentions that, while small groups of people are actually experiencing an improvement, the majority is experiencing a reversal or downturn in their standards of living. The Government attributes this situation to the stringent measures imposed by the International Monetary Fund and the global economic downturn. As regards the means employed to aid independent producers to reach a higher standard of living, the Government refers to the provision of grants, training and markets for products. Furthermore, there are programmes to assist in the mitigation of the difficulties experienced by independent producers when unable to maintain a minimum standard of living. ***The Committee invites the Government to provide, in its next report, up-to-date information indicating how the "improvement of standard of living" is regarded as "the principal objective in the planning of economic development" in accordance with Article 2 of the Convention. Please also supply detailed information on the measures taken to promote cooperatives and to improve the standards of living for workers in the informal economy (Articles 4(e) and 5).***

Part IV. Remuneration of workers. Protection of wages. The Government indicates that there is no legislation directly aiming to ensure the proper payment of all wages earned. Furthermore, with regard to the measures contemplated in order to give effect to *Article 11(8)* of the Convention, the Government reiterates the information provided in its previous report. The Committee recalls that, for some years now, the Government has been requested to report on the measures taken or envisaged in order to give effect to various subparagraphs of *Article 11*. ***The Committee asks the Government to provide information in its next report on the measures taken to facilitate the supervision necessary to ensure the proper payment of all wages earned, and the keeping by employers of registers to ensure the issue to workers of statements of their wage payments. The Committee requests the Government to provide in its next report specific information on the policies, practices or any other measures adopted indicating, where appropriate, the relevant provisions of legislation and administrative regulations which ensure the proper payment of all wages earned, as provided under each of the subparagraphs of Article 11 of the Convention.***

Advances on wages. In response to the Committee's previous comments, the Government indicates that, at this time, it has not taken nor is contemplating taking any measures in order to regulate the advances on wages in the private sector. The Committee recalls that, under *Article 12* of the Convention, not only does the manner of repayment of advances on wages have to be regulated, but the maximum amounts of advances have to be determined and any advance in excess of the amount laid down has to be made legally irrecoverable. The aforementioned obligation covers both the public and private sectors. ***The Committee again requests the Government to indicate, in its next report, the measures taken or contemplated to regulate the advances on wages in accordance with Article 12 of the Convention.***

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Nicaragua

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1981)

Parts I and II of the Convention. Improvement of standards of living. In its previous comments, the Committee requested the Government to provide information on the results achieved by the National Human Development Plan (PNDH 2012–16) and the other initiatives adopted with a view to ensuring the improvement of the living standards of the population. In this regard, the Committee notes the adoption, in February 2018, of the Country Partnership Framework for Nicaragua for the period 2018–22 with the World Bank, to reduce poverty and promote prosperity for more Nicaraguans. The main objectives of the Framework are to invest in human resources, particularly with regard to groups in vulnerable situations (women, young people, small-scale producers who practise subsistence agriculture, and indigenous communities and communities of African descent in rural areas such as the Corredor Seco and Caribbean regions, in which the majority of people live in poverty and extreme poverty), promote private investment for job creation. Furthermore, in accordance with the document containing the Framework, and given that 80 per cent of the population are vulnerable or poor, and that the labour force will continue to expand over the next 20 years, the Framework also envisages investing in activities focused on improving the functioning of the economy as a whole, ensuring more rapid growth, and helping to create more and better jobs. The Committee observes, however, that the Government's report does not provide information on the results achieved by the PNDH 2012–16, or on the measures adopted to improve the living standards of the population.

The Committee expresses **deep concern** regarding the serious situation in the country, which stems from the political and social crisis following the protests that began on 18 April 2018, and which has had a serious impact on the living conditions of the population. In this regard, the Committee notes the information included in the report of the United Nations Office of the High Commissioner for Human Rights (OHCHR) entitled *Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018*, which expresses concern about human rights violations and abuses in the context of the protests in Nicaragua. The Committee notes that, according to the above report, the independent Nicaraguan Foundation for Economic and Social Development (FUNIDES) estimated that, since the beginning of the crisis, 215,000

individuals had lost their jobs and 131,000 had fallen below the poverty line as of 28 June 2018. The report states that the crisis was also characterized by an unprecedented wave of illegal occupations of private land by pro-Government groups. According to the estimations of the Union of Nicaraguan Agricultural Producers (UPANIC), by 31 July 2018, around 4,000 hectares of land had been illegally occupied in the seven departments of the Pacific and the centre of the country. The Higher Council of Private Enterprises (COSEP) has reported other violations of rights, including attacks against enterprises and unjustified delays in the clearance of imported goods. Furthermore, the enjoyment of the right to health has been significantly affected by the crisis, with an estimated 2,000 people injured during the protests. On 25 May 2018, the Nicaraguan Medical Association publicly denounced the manipulation of the public health system through the refusal of medical care for the individuals injured during the protests, including the closure and cordoning-off of hospitals by the authorities, police and/or pro-Government armed elements. Moreover, physicians and other health professionals, including nurses and administrative staff, have been dismissed for treating injured individuals during the protests or for their alleged involvement in the protests, in the same manner as teachers who supported the protests. The Committee also notes that, according to the report, on 14 August 2018, the National Assembly adopted a law that cut public spending by almost US\$185 million (approximately 7 per cent of the annual budget). The report indicates that these measures will affect government projects in sectors such as health, housing, justice and education, and could jeopardize the enjoyment of the right to work, health, education and food by the majority of the population, which has already been experiencing the adverse effects of the crisis in recent months. The Committee observes that, according to the information published in October 2018 by the World Bank, which is available on its website, after achieving a record growth rate of 5.1 per cent in 2011, the economy slowed from 4.7 per cent in 2016 to 4.5 per cent in 2017, with a further contraction of 3.8 per cent forecast for 2018. ***The Committee therefore requests the Government to provide detailed information, including statistics disaggregated by sex and age, on the results achieved by the National Human Development Plan (PNDH 2012–16), the Country Partnership Framework for Nicaragua for 2018–22, and on any measures aimed at ensuring the improvement of the standards of living of the Nicaraguan population (Article 2), particularly with regard to groups in vulnerable situations, such as women, young people, people with disabilities, small-scale producers engaged in subsistence agriculture, and indigenous communities and communities of African descent. While noting the harm caused to the living conditions of the population as a result of the political and social crisis in the country, the Committee requests the Government to take the necessary steps to ensure that these measures take into account essential family needs of workers such as food and its nutritive value, housing, clothing, medical care and education (Article 5(2)). It also requests the Government to supply information on any measures taken in this regard and their outcome. In this context, the Committee reminds the Government of the possibility of availing itself of ILO technical assistance.***

Part III. Migrant workers. In reply to the Committee's previous comments, the Government states that, under the agreement concluded with Costa Rica, 28,452 Nicaraguan workers migrated to Costa Rica in a regulated and orderly manner during the different agricultural cycles between 2006 and 2018. The Government indicates that the majority of migrant workers are men working in the agricultural sector in the production of sugar cane, melons and pineapples. The Committee notes that, in its concluding observations of 11 October 2016, the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) observed the considerable number of frontier workers and seasonal workers migrating, in particular to Costa Rica, and increasingly, to Honduras, El Salvador and Panama. The CMW also observed with concern that this migration from the State party was largely driven by poverty, inequality and social exclusion, which could put Nicaraguan migrant workers and members of their family into precarious or insecure situations (CMW/C/NIC/CO/1, paragraphs 51 and 65). ***The Committee requests the Government to provide updated and detailed information on the measures adopted to ensure that the working conditions of migrant workers who are required to live away from their homes take into account their family needs. The Committee also requests the Government to supply statistical data, disaggregated by sex and age, on the number of migrant workers required to live away from their homes.***

Article 13. Voluntary savings. In its previous comments, the Committee requested the Government to provide information on the manner in which savings and credit cooperatives had contributed to encouraging voluntary forms of savings among wage earners and independent producers. The Government indicates that the Minister of the Family Economy, Communities, Cooperatives and Associations (MEFCCA) has registered 277 savings and credit cooperatives, in which 107,615 workers and producers are participating. However, the Committee notes that, in its concluding observations of 11 October 2016, the CMW observed with concern the lack of measures to support access to financial institutions and to promote financial literacy, particularly among women (CMW/C/NIC/CO/1, paragraph 49). ***The Committee requests the Government to continue supplying updated and detailed information on the measures adopted to encourage wage earners and independent producers to practice the voluntary forms of thrift covered by the Convention. It also requests the Government to indicate the measures adopted to protect wage earners and independent producers against usury, and particularly to specify the measures taken with a view to reducing the rates of interest on loans by the control of the operations of moneylenders, and the encouragement of facilities for borrowing money for appropriate purposes through cooperative credit organizations or through institutions which are under the control of the competent authority. The Committee also requests the Government to provide information on the measures adopted in this regard that are aimed specifically at women.***

[The Government is asked to supply full particulars to the Conference at its 108th Session and to reply in full to the present comments in 2019.]

Bolivarian Republic of Venezuela

Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1983)

The Committee notes the observations made by the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the General Confederation of Workers (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 26 September 2018. The Committee also notes the observations of the Independent Trade Union Alliance Confederation of Workers (CTASI), received on 29 August 2018. **The Committee requests the Government to provide its comments in this respect.**

Parts I and II of the Convention. Improvement of standards of living. The Committee notes the information provided by the Government in response to its previous comments regarding the series of social programmes adopted with a view to bolstering the Missions and Major Missions to improve the quality of life of the population. Among other measures, the Government refers to the transformation in June 2018 of the Youth Employment Plan into the Major Youth Employment Mission, which targets young people between the ages of 15 and 35 years, especially unemployed graduates, persons without education, single mothers, persons with family responsibilities and vulnerable persons. This Major Mission aims, inter alia, to integrate young people into productive work in areas associated with meeting human needs, and to train and qualify young people in occupations that produce goods and services for which there is a high social demand. The Government reports that 1,100,000 young people were enrolled in the Major Mission in August 2018. In June 2017, the “We are Venezuela” movement was established, comprising mainly young people who visit homes with a view to assisting vulnerable families in order to strengthen social policies. In 2016, Local Supply and Production Committees (CLAP) were established and there are now more than 32,000 committees throughout the country responsible for distributing essential goods (food and sanitation products) to more than 6 million families. The Government also reports the introduction of the *Carnet de la Patria* identity card, an innovative social protection system, through which the beneficiaries of the various social programmes are registered with a view to streamlining the implementation of those programmes, and in which 16,595,140 people are registered. The Government also refers to the Major Mission for Households in the Motherland, which aims to end extreme poverty in the country, the rate of which, according to the Government, is currently 4.4 per cent. This Mission covers more than 1,300,000 vulnerable families and aims to reach 2 million households. The Government also indicates that, since its establishment in 2011, the Major Mission for Housing in Venezuela has built 1,926,448 homes and aims to build a further 3 million by 2019.

The Committee expresses **deep concern** regarding the serious situation in the country, denounced by the CTASI in its observations, particularly the lack of access to essential goods, which has led to an increase in migration to other countries in the region and a number of protests, as well as increased violence and crime associated with a lack of food (looting, robbery, black market sales, smuggling, threats to those responsible for food distribution, etc.). The CTASI indicates that income poverty increased in the country from 81.8 per cent in 2016 to 87 per cent in 2017. Furthermore, it asserts that the Venezuelan food system assessment, initiated in 2017, has been characterized by a sustained reduction in national production, imports and food consumption, thus increasing the alarming levels of acute malnutrition in the population. The CTASI alleges that women and girls are the worst affected and cases of sex being exchanged for boxes of food from the CLAP have been reported. The CTASI also states that several regulations have been adopted with a view to controlling food production and distribution in the country, most notably the approval in January 2018 of the Act establishing Local Supply and Production Committees. In this regard, it reports irregularities in food distribution by CLAPs, such as their insufficient frequency and geographical coverage, their failure to take into account the criterion of household vulnerability, discrimination in access to food on the grounds of political affiliation and cases of poisoning as a consequence of rotten food. The Committee notes with **concern** the assertion by UNETE, CTV, CODESA and CGT that the *Carnet de la Patria* identity card is a social control mechanism. They assert that, with promises of bank deposits, food vouchers, toys and other benefits, the Government uses the *Carnet de la Patria* identity card and the “We are Venezuela” movement to mobilize voters during elections. They also allege that the Government uses food scarcity to maintain total control over voters and sometimes delivers boxes of food through the CLAPs for electoral purposes. Regarding the programmes implemented, they indicate that the Major Youth Employment Mission does not guarantee young people access to stable and decent work, but rather to short-term “gigs” and that, according to a report by the Office of the Comptroller General of the Republic, school food programmes are hampered by planning, supervision and internal control issues. **The Committee refers to its comments on the application of the Employment Policy Convention, 1964 (No. 122), the Paid Educational Leave Convention, 1974 (No. 140), and the Human Resources Development Convention, 1975 (No. 142), which are related to the present Convention, and requests the Government to provide detailed and updated information in its next report on the Convention in relation to the impact of the measures implemented on improving standards of living for the whole population. The Committee also requests the Government to indicate how it guarantees that these measures take into account such essential family needs as food and its nutritive value, housing, clothing, medical care, including access to medicines, and education.**

Part IV. Remuneration of workers. Advances on wages. In its previous comments, the Committee requested the Government to provide rulings by courts of justice or updated copies of administrative decisions addressing the maximum amount and manner of the repayment of advances on wages that give effect to *Article 12(2) and (3) of the Convention.*

The Committee notes that the Government refers in its report to article 91 of the Constitution of the Bolivarian Republic of Venezuela and section 103 of the Basic Act concerning labour and men and women workers (LOTTT), which establishes that wages cannot be seized. The Government reiterates that, under the provisions of section 154 of the LOTTT “throughout the employment relationship, the debts that men and women workers agree with their employer shall only be repayable, on a weekly or monthly basis, in amounts that may not exceed one third of the equivalent of a week or month of work, as appropriate”. The Government indicates that the decisions of the competent administrative authorities are based on the provisions of the aforementioned section. The Government adds that debts are repaid, but not advances on social benefits granted to cover the basic needs of housing, education and health, which can reach up to 75 per cent. The Committee observes, however, that the Government does not provide specific examples of rulings by courts of justice or administrative decisions addressing the maximum amount and manner of repayment of advances on wages. ***The Committee once again requests the Government to provide specific and recent examples of rulings by courts of justice or administrative decisions addressing the maximum amount and manner of repayment of advances on wages, in accordance with the requirements of Article 12 of the Convention.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 82** (France: French Polynesia, New Zealand: Tokelau, United Kingdom: Anguilla, United Kingdom: Bermuda, United Kingdom: British Virgin Islands, United Kingdom: Falkland Islands (Malvinas), United Kingdom: Montserrat); **Convention No. 117** (Central African Republic, Democratic Republic of the Congo, Georgia, Ghana, Guinea, Jordan, Madagascar, Malta, Republic of Moldova, Ukraine).

Migrant workers

Barbados

Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1967)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013.

Articles 7 and 9 of the Convention. Free services and assistance and transfer of remittances. In its previous comments, the Committee considered that the requirement for migrant workers participating in the Canada–Caribbean Seasonal Agricultural Workers Programme “the Farm Labour Programme” – to remit 25 per cent of their earnings to the Government directly from Canada as mandatory savings, 5 per cent of which was retained to pay the administrative costs of the Programme, could be contrary to the spirit of *Article 9* of the Convention. The Committee had also taken note of the concerns expressed by the Congress of Trade Unions and Staff Associations of Barbados that this requirement, together with the immediate deduction of certain costs such as airfares, pension and medical contributions from the workers' pay, created hardship for the workers, and the Programme needed to be reviewed. The Committee also drew the Government's attention to the fact that charging workers for purely administrative costs of recruitment, introduction and placement is prohibited under the Convention (General Survey of 1999 on migrant workers, paragraph 170).

The Committee notes the Government's indication that arrangements are made for a percentage of the earnings of the workers on overseas programmes to be remitted back to the country for them to access upon return and that workers travelling on the overseas programmes are required to sign an “agreement” (contract of employment) which allows for the deduction of 20 per cent of their wages to cover administration costs and national insurance contributions. According to the Government, upon arrival in Canada the workers are met by the Barbados liaison officers and in Barbados the employment services to migrants are rendered free of charge by the National Employment Bureau, which oversees the preparation and departure of workers. The Committee notes that the “Agreement for the Employment in Canada of Commonwealth Caribbean Seasonal Agricultural Workers – 2013” provides that the worker agrees that the employer shall remit to the government agent 25 per cent of the worker's wages for each payroll period and that “a specified percentage of the 25 per cent remittance to the government agent shall be retained by the Government to defray administrative costs associated with the delivery of the programme” (section IV, paragraphs 1 and 3). The worker also agrees to pay to the employer part of the transportation costs and the employer, on behalf of the worker, will advance the work permit fees and be reimbursed by the government agent (section VII, paragraphs 3–4). *The Committee requests the Government to clarify why it is considered necessary to require migrant workers under the Farm Labour Programme to remit 25 per cent of their wages to the liaison service for mandatory savings, including for administrative costs, and to indicate whether the liaison service has a role in the recruitment, introduction and placement of migrant workers and whether any of the administrative costs retained by the liaison service relate to recruitment, introduction or placement. The Committee also requests the Government to take the necessary measures to ensure that migrants for employment are permitted to transfer their earnings or such part of their earnings and savings as they desire, and to provide information on any steps taken, in cooperation with the workers' and employers' organizations, to review the impact of the Farm Labour Programme on the situation of Barbadian migrant workers.*

The Committee is raising other matters in a request addressed directly to the Government.

Kenya

Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) (ratification: 1979)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2012.

Articles 10, 12 and 14(a) of the Convention. National policy on equality of opportunity and treatment, and free choice of employment. For a number of years, the Committee has addressed the issue of the existing policy of “Kenyanization” of employment which was considered by the Committee as contrary to the principle established by the Convention of equality of opportunity and treatment between national and foreign workers provided that foreign workers are residing lawfully in the country of employment. The Committee notes with *interest* that section 5 of the Employment Act 2007 provides that the Minister, labour officers and the Industrial Court shall promote and guarantee equality of opportunity for a person who is a migrant worker or a member of his or her family lawfully within Kenya. Section 5 also prohibits direct and indirect discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status or HIV status, with respect to recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of employment. Besides, it establishes that an employer shall pay his or her employees equal remuneration for work of equal value. The Committee further notes the adoption of the National Gender and Equality Commission Act, 2011 and the Citizens and Foreign Nationals Management Service Act, 2011. *The Committee requests the Government to indicate the manner in which section 5 of the Employment Act 2007 is applied in practice, namely how it is translated into a national policy designed to promote and to guarantee equality of opportunity and treatment in respect of employment and occupation, social security, trade union and cultural rights and individual and collective freedoms for persons who, as migrant workers or as members of their families are lawfully within its territory, as provided in Articles 10 and 12(a)–(g) of the Convention. Please provide information on the functioning of and the measures adopted on these issues by the National Gender and Equality Commission and the Citizens and Foreign Nationals Management Service.*

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Malaysia

Sabah

Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1964)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2017.

Article 6 of the Convention. Equal treatment. Minimum wages and the foreign worker levy. The Committee recalls its previous comments in which it noted that the National Wages Consultative Council Act 2011 (Act 732) and the Minimum Wages Order 2012 provided for a regional monthly minimum wage for Sabah covering national and foreign workers, but exclude domestic workers from their application. It also recalls that an annual foreign worker levy in the plantation sector, agricultural and fishing sector, manufacturing sector, construction sector, and in the services sector, and for domestic workers, is to be paid to the Immigration Department. The Government also indicated that, as of 1 January 2014, all employers employing foreign workers should pay the minimum wage and would be allowed to deduct the foreign worker levy and the cost of accommodation from migrant workers' wages, but not from the minimum wage. As the Government had indicated in the past that the levy was paid by the employer and could not be deducted from the wages of the foreign worker, the Committee considered that ambiguity existed regarding the foreign worker levy and permissible deductions from minimum wages of foreign workers, since the establishment of the regional minimum wage for Sabah.

The Committee notes that the Government's report has not been received. It notes however that the Government provided information in 2016 confirming the Malaysian government policy requiring the levy to be borne by the foreign worker. The Government however indicates that pursuant to section 113(4) of the Sabah Labour Ordinance (Cap 67), no deductions of levy and accommodation costs are allowed, except at the request in writing of the employee and with prior permission by the competent authority. The Government adds that when approving such requests, the wish of the foreign worker to pay the levy in instalments or by way of a lump sum, is being taken into account; not allowing the deduction of the levy from wages of foreign employees, despite their written request, would only burden these employees. While noting these explanations, the Committee remains concerned that, in practice, employers may still deduct the amount of the levy from the minimum wage of the foreign worker, which would result in less favourable treatment of these workers with nationals, contrary to *Article 6(1)(a)* of the Convention. Noting further that the Government had previously reported that the levy was meant to help defray the costs of maintenance of the facilities and infrastructure used by foreign workers during their stay in the country, the Committee considers that, especially when levy rates are high, imposing the burden of the levy on the foreign worker would not be equitable and could have a negative impact on the wages and general working conditions and rights of migrant workers. Regarding deductions for costs of accommodation, the Committee notes the Government's explanations that such deductions will not be allowed if it is agreed that the employer has the obligation to provide free accommodation to the employees. ***The Committee asks the Government to clarify the reasons for laying the burden of maintenance costs of facilities and infrastructure, through payment of an annual levy, with the foreign worker, and to indicate whether any consideration is being given to shift the burden of the foreign worker levy onto the employer, or to examine alternative ways to compensate for the so-called costs for facilities and infrastructure generated by foreign workers during their stay. The Committee also asks the Government to specify the applicable legal provisions or policy prohibiting levy deductions from the minimum wage, and to indicate the measures taken to ensure that, in practice, employers do not deduct the levy amount from the minimum wages paid to foreign workers. Recalling that the Government had previously indicated that it was willing to examine the impact of the levy system on the working conditions and equal treatment of migrant workers, including wages, the Committee requests the Government to undertake such an assessment and provide information on its results and any follow-up given to it.***

Article 6(1)(b) of the Convention. Equality of treatment with respect to social security. Employment injury benefits. The Committee notes that the Government's report was not received despite the Committee's longstanding comments regarding differences in treatment between nationals and temporary foreign workers with respect to payment of social security benefits in the case of industrial injuries. The differences relate to the Workmen's Compensation Scheme (WCS), which guarantees to foreign workers employed in the country for up to five years only a lump-sum payment of a significantly lower amount than the periodical payments to victims of industrial injuries provided under the Employees' Social Security Scheme (ESS), while Malaysian nationals and foreign workers permanently residing in Malaysia (Sabah) continue to be covered by the ESS. The Government had previously indicated that it was looking into various options, with the participation of all stakeholders with a view to bringing the national legislation in line with the requirements of the Convention. The Committee recalls that it has been raising this same issue since 1993 in the context of its comments under the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), with respect to Peninsular Malaysia and Sarawak. The Committee refers the Government to its observation on Convention No. 19 which notes the discussion on the application of that Convention in Peninsular Malaysia and Sarawak by the Conference Committee on the Application of Standards (CAS) in June 2017. The Committee notes that the CAS once again called upon the Government to take immediate, pragmatic and effective steps to ensure that the Convention's requirement of equal treatment of migrant workers and national workers was met and to expedite its efforts to this effect, as the need for progress was becoming increasingly urgent. ***The Committee urges the Government to take into account its comments on the application in Peninsular Malaysia and Sarawak of Convention No. 19 when addressing the issue of equal treatment between migrant workers and nationals with respect to industrial injuries in Sabah.***

Other social security benefits. With respect to other social security benefits, including medical care, old-age, invalidity and survivor's pensions, as well as sickness and maternity benefits, the Committee notes that the Government has not provided any further information in this respect. ***Taking into account the large number of foreign workers concerned, the Committee urges the Government to provide information on the steps taken, including the conclusion of bilateral or multilateral agreements, to ensure that migrant workers do not receive treatment which is less favourable than that applied to nationals or foreign workers permanently residing in the country with respect to all social security benefits.***

The Committee is raising other matters in a request addressed directly to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Spain

Migration for Employment Convention (Revised), 1949 (No. 97) (ratification: 1967)

The Committee notes the observations of the General Union of Workers (UGT) received on 17 August 2017, and which were forwarded by the Government, and the Government's reply.

Article 6(1)(a) and (b) of the Convention. Equal treatment regarding conditions of work and social security. The Committee notes the observations of the UGT concerning the exclusion of domestic workers from the Occupational Risk Prevention Act (No. 31 of 8 November 1995) and particularly concerning the fact that section 26 of the Act relating to maternity protection is not applied to these workers. The Committee notes the Government's reply in its report indicating, inter alia, that the above-mentioned Act does not apply to domestic work because the household is not considered an enterprise or workplace, and so it is impossible to monitor compliance with obligations in this area. However, the Act provides that the householder is obliged to ensure that the work of his/her employees is done under appropriate conditions of safety and health (section 3(4)). The Government also refers to section 7(2) of Royal Decree No. 1620/2011 of 14 November 2011 establishing special labour regulations for domestic work, under which the employer is obliged to ensure that the work of the domestic employee is done under appropriate conditions of safety and health, for which purpose the employer shall adopt effective measures, taking due account of the specific features of domestic work. Serious failure to comply with these obligations shall constitute grounds for resignation by the employee. **Recalling that migrant domestic workers are at particular risk of abuse and exploitation, the Committee requests the Government to indicate the measures taken: (i) to ensure that such workers receive information, in an appropriate manner and in a language that they understand, on the conditions of work applicable under national law; and (ii) to ensure that existing complaint mechanisms are effective and accessible. Further, recalling that over half the foreigners employed in Spain are engaged in domestic work, the Committee requests information on complaints filed by domestic workers, investigations conducted, and sanctions issued.**

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 97** (Barbados, Belize, Dominica, Ecuador, Grenada, Guatemala, Guyana, Jamaica, Kyrgyzstan, Malawi, Malaysia: Sabah, Spain, Tajikistan, Trinidad and Tobago, United Kingdom: Anguilla, United Kingdom: British Virgin Islands, United Kingdom: Jersey, United Kingdom: Montserrat, Uruguay); **Convention No. 143** (Guinea, Kenya, San Marino, Uganda).

Seafarers

Dominica

Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147) (ratification: 2004)

The Committee notes with **deep concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2012.

Article 2 of the Convention. Implementing legislation. The Committee notes the Government's indication that a special Tripartite Committee has been appointed to advise the Government on all matters relating to legislation and institutional changes necessary for the ratification of the Maritime Labour Convention, 2006 (MLC, 2006). It also notes that a National Action Plan has been prepared in order to formulate recommendations to the Government on matters of maritime laws and administration. While welcoming the Government's active steps towards the ratification of the MLC, 2006, the Committee is bound to observe that the Government's first report on the application of Convention No. 147 does not contain any information on the laws or regulations and other measures giving effect to the specific requirements of the latter Convention. **The Committee therefore requests the Government to indicate in detail how each of the Articles of the Convention is applied in national law and practice, and explain in particular in what manner the provisions of the International Maritime Act, 2002, and of the Dominica Maritime Regulations, 2002, are substantially equivalent to the Conventions mentioned in the Appendix of the Convention relating to safety standards, social security measures and shipboard conditions of employment and shipboard living arrangements, as required under Article 2 of the Convention.**

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Egypt

Accommodation of Crews Convention (Revised), 1949 (No. 92) (ratification: 1982)

Articles 6–17 of the Convention. Crew accommodation requirements. In its previous comments, the Committee observed that the national legislation did not give effect to any of the technical accommodation standards set out in Articles 6–17 of the Convention, such as those related to the minimum floor area of sleeping rooms, size of berths, lighting, ventilation, heating, mess rooms, sanitary facilities and hospital accommodation. In this respect, the Committee recalls that a legislative gap analysis, which was prepared in 2010 with the support of the Office with a view to assisting the Government with its preparations for the ratification of the MLC, 2006, as amended (MLC, 2006), similarly concluded that in a possible amendment to Maritime Law No. 8 of 1990, provision should be made for practically every aspect of crew accommodation contained in Title 3 of the MLC, 2006. The Committee further notes that a workshop on the MLC, 2006, was conducted by the Office in Alexandria in 2015. In its reply, the Government indicates that work is under way to bring national legislation into conformity with the provisions of Convention No. 92. The Government further indicates that the legislative committees continue their sessions so as to bring into conformity relevant national legislation with the provisions of the MLC, 2006, in preparation for its effective implementation before ratification. **The Committee requests the Government to take all the necessary steps in order to bring its maritime legislation into conformity with the requirements of this Convention. The Committee also requests the Government to keep the Office informed of any developments in the process of ratification of the MLC, 2006.**

Ghana

Seafarers' Identity Documents Convention, 1958 (No. 108) (ratification: 1960)

Articles 1–6 of the Convention. Issuance of seafarers' identity documents. The Committee had noted that pursuant to section 121 of the Ghana Shipping Act, 2003 (Act No. 645), the Minister may make regulations to provide for the conditions of service of persons serving on Ghanaian ships and Ghanaian nationals serving on foreign ships, and the implementation of any international Convention relating to the employment, welfare, security, certification or status of seafarers. The Committee notes with **regret** that the Government, in its report, does not provide information on any regulations adopted to implement the provisions of the Convention. The Committee further notes that the Government reiterates its previous indication, namely that the specimen of a seafarers' identity document is not readily available. **The Committee therefore requests the Government to indicate the measures taken to give effect to the Convention and to provide a specimen of the seafarers' identity document.**

Article 5. Readmission of seafarers holding Ghanaian seafarers' identity documents. The Committee had requested the Government to provide information on the measures taken to ensure that non-Ghanaian seafarers holding a Ghanaian seafarers' identity document are admitted into Ghanaian territory. The Committee notes that the Government reiterates its previous indication, namely that a seafarers' identity document and proof of engagement by a shipping company are required before a seafarer is permitted entry into the territory. The Committee recalls that any seafarer who holds a valid seafarers' identity document issued by the competent authority of a territory for which the Convention is in force shall be readmitted to that territory, whether or not they are presently engaged with a shipping company or agent.

The same applies during a period of at least one year after expiry of their identity document. *The Committee therefore requests the Government once again to indicate the measures adopted to give effect to this provision of the Convention.*

Mexico

Seamen's Articles of Agreement Convention, 1926 (No. 22)

(ratification: 1934)

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)

(ratification: 1939)

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)

(ratification: 1974)

Seafarers' Welfare Convention, 1987 (No. 163) (ratification: 1990)

Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)

(ratification: 1990)

Repatriation of Seafarers Convention (Revised), 1987 (No. 166)

(ratification: 1990)

The Committee notes the observations of the Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN), forwarded by the International Organisation of Employers (IOE) on 26 July 2016, regarding the Government's application of Conventions Nos 22, 55, 134, 163 and 164. CONCAMIN indicates that, in view of the Committee's considerations and the legislation in force, it would be appropriate to analyse the whole body of standards relating to seafarers and indicates its willingness to participate in the process of analysis and implementation of ad hoc regulations. *The Committee requests the Government to send its observations in this regard.* The Committee also notes the reports sent by the Government on the application of the abovementioned maritime Conventions and Convention No. 166. In order to provide an overview of matters arising in relation to the application of these Conventions, the Committee considers it appropriate to examine them in a single comment, as follows.

The Committee notes the Government's indication that, under article 133 of the Political Constitution of the United States of Mexico (Constitution) and section 6 of the Federal Labour Act of 1 April 1979, treaties form part of national law and may be applied without it being necessary to adopt national legislation. The Committee observes that article 133 of the Constitution provides that the said Constitution, the laws of the National Congress emanating from it and all treaties which are in conformity with it, concluded by the Government with the approval of the Senate, shall be the supreme law of the land, and that the judges of each federal entity shall act in conformity with the Constitution, laws and treaties, notwithstanding any provisions to the contrary in the constitutions or laws of federal entities. The Committee also observes that, under section 6 of the Federal Labour Act, the respective laws and treaties concluded and approved in accordance with article 133 of the Constitution shall be applicable to employment relationships in respect of all the benefits enjoyed by workers, from the date of entry into force. On this basis, in the absence of specific national provisions that give effect to the self-executing provisions of the Conventions, the Committee has considered the latter provisions to be directly applicable in Mexico. However, the Committee wishes to emphasize that the maritime Conventions contain a number of provisions which are not self-executing and hence require the adoption of legislation and other measures by the Government.

Seamen's Articles of Agreement Convention, 1926 (No. 22)

Article 3(1) of the Convention. Facilities to examine the articles of agreement before signature. In its previous comments, the Committee asked the Government to indicate the manner in which it is ensured that seafarers are given facilities to examine the articles of agreement before signature. The Committee notes the Government's indication in this regard that seafarers may consult free of charge the Federal Conciliation and Arbitration Board and the Office of the Federal Prosecutor for the Defence of Labour regarding any queries concerning the content of the agreement. The Committee also notes the Government's indication that, under section 28 of the Federal Labour Act, when a Mexican worker is employed abroad, the agreement shall be submitted to the Federal Conciliation and Arbitration Board to verify that it satisfies the conditions of work prescribed by the abovementioned Act. The Committee notes this information.

Article 6(3)(10). Information to be included in the agreement. Conditions for the termination of the agreement. In its previous comments, the Committee drew the Government's attention to the fact that the Federal Labour Act does not include, among the indications which must be provided in writing in the agreement, the conditions for termination of the agreement. The Committee notes the Government's indications that such conditions are established in sections 194 and 195 of the Federal Labour Act, which include the stipulation that the agreement shall indicate whether it is concluded for a definite or indefinite period or for an individual voyage, and in section 206 of the aforementioned Act concerning the termination of employment relationships of workers on board vessels. Furthermore, the Committee notes the Government's indication that, under article 133 of the Constitution and section 6 of the Federal Labour Act, the provisions

of *Article 6(3)* of the Convention concerning the particulars that the agreement must contain are directly applicable in national law. While recalling the self-executing nature of *Article 6* of the Convention, the Committee notes the information provided by the Government and considers that it responds to its previous request on this matter.

Article 9. Termination of the agreement. In many previous comments, the Committee noted that section 209(III) of the Federal Labour Act – which provides that employment relationships may not be terminated when the vessel is abroad, in unpopulated areas or in port, should the vessel be exposed in the latter case to any risk due to bad weather or other circumstances – is not in conformity with *Article 9* of the Convention, which provides that an agreement for an indefinite period may be terminated by either party in any port where the vessel loads or unloads, provided that the notice specified in the agreement shall have been given. The Committee notes the Government's indications that the purpose of section 209(III) of the Federal Labour Act is to prevent workers and the vessel itself from being exposed to exceptional situations of risk and does not prevent the termination of the employment relationship when such a situation no longer exists. However, the Committee once again observes with **deep concern** that section 209(III) of the Federal Labour Act prevents the possibility of an agreement for an indefinite period being terminated in any port where the vessel loads or unloads, as required by the Convention. **The Committee therefore once again requests the Government to take the necessary measures without delay to bring the national legislation into conformity with Article 9 of the Convention.**

Article 14(1). Record of discharge in the identity document. In its previous comments, the Committee noted that the copy of the seafarers' book and identity document sent by the Government does not include a space to enter the expiry or termination of the agreement. The Committee notes the Government's indication that the Ministry of Communication and Transport (SCT), the competent authority for issuing this document, stated that in view of the austerity measures regarding the use of government resources and the significant number of seafarers' books and identity documents in circulation, the space for noting the expiry or termination of the agreement has not yet been incorporated in the document in question. **The Committee requests the Government to provide up-to-date information on the measures taken to ensure that any discharge is recorded in the document issued to the seafarer, in accordance with Article 14(1) of the Convention.**

Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)

Article 6 of the Convention. Repatriation expenses in the event of sickness or injury. In its previous comments, the Committee noted that, under section 204(VII) of the Federal Labour Act, employers have the obligation to provide seafarers with food and accommodation, medical treatment and medicines in the event of illness, but that there is no mention of shipowners' responsibility to bear the cost of repatriation for a sick or injured seafarer who is put ashore during the voyage as a result of illness or injury. The Committee notes the Government's indication that the Federal Labour Act does not specifically establish the obligation to cover repatriation expenses in such circumstances. However, the Government indicates that this obligation derives from article 123(A)(XXVI) of the Constitution, which provides that employment contracts concluded between a Mexican citizen and a foreign employer shall clearly specify that the cost of repatriation shall be borne by the employer. The Committee observes that this provision of the Constitution does not regulate the repatriation of seafarers on vessels flying the Mexican flag or not under foreign ownership. **The Committee once again requests the Government to take the necessary measures to ensure that all seafarers have the right to be repatriated at the expense of the shipowner in the event of sickness or injury, in accordance with Article 6 of the Convention.**

Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)

Article 2(3). Detailed statistics on occupational accidents on board. In its previous comments, the Committee asked the Government to take the necessary steps to ensure the availability of statistics relating to occupational accidents on board that indicate clearly the part of the ship (deck, engine room or catering areas) and the location (at sea or in port) where the accident occurred, in accordance with *Article 2(3)*. The Committee notes the Government's indications that: the Merchant Shipping Department at the SCT and the Mexican Social Security Institute (IMSS) compile the relevant statistics; the IMSS bases its statistics on the data compiled in the occupational accident notification system (SIAAT), and the relevant Mexican Official Standard (NOM-036-SCT4-2007 of 17 August 2007) is being updated. However, the Committee observes that the statistics of the Merchant Shipping Department forwarded by the Government do not indicate the part of the vessel or the location where accidents occurred. The Committee also notes that the Government has not provided any statistics from the IMSS and that the SIAAT accident notification form does not include a space to indicate in the part of the ship and the location where the accident occurred. Lastly, while noting that NOM-036-SCT4-2007 provides that the shipowner shall report occupational accidents to the maritime authority, the Committee points out that the aforementioned standard does not specify the level of detail to be included in such reports. **The Committee therefore requests the Government to indicate whether and how the different mechanisms established for the compilation of information on occupational accidents on board (by the Merchant Shipping Department or the SIAAT system) enable the Government to have disaggregated statistics, in accordance with Article 2(3) of the Convention.**

Article 3. Research into general trends and hazards of maritime employment. In its previous comments, the Committee asked the Government to take steps to conduct research into general trends and hazards of maritime employment. The Committee notes the information provided by the Government on occupational safety and health (OSH) advisory committees at both the national and the individual state level (COCONASST and COCOESST, respectively and

on the National Advisory Committee on OSH Normalization). The Committee also notes the Government's indications that the Federal Occupational Safety and Health Regulations (Federal OSH Regulations), which apply to ships, require employers to do research into the risks of various types of jobs and to send information to the Ministry of Labour and Social Welfare. The Government also indicates that employers can examine the risks of occupational accidents through OSH committees and services. However, the Committee observes that the mechanisms for research into the occupational hazards described by the Government are not exclusive to maritime employment. ***The Committee therefore requests the Government to clarify whether in practice such research makes it possible to establish general trends and hazards peculiar to maritime employment, and can be used in relation to the prevention of accidents in the particular context of maritime employment, in accordance with Article 3 of the Convention.***

Article 4(3). Measures for the prevention of occupational accidents. In its previous comments, the Committee firmly requested the Government to take the necessary measures to ensure that the standards applicable to seafarers for the prevention of accidents and the protection of health in employment specify the particular features of maritime employment listed in *Article 4(3)*, such as structural features of the ship, machinery, special safety measures on deck, loading and unloading equipment, fire prevention and firefighting, anchors, chains and lines, dangerous cargo and ballast, and personal protective equipment. The Committee notes that the information supplied by the Government is of a general nature and does not mention the adoption of any standards that meet the requirements of *Article 4(3)*. ***The Committee therefore once again requests the Government to take the necessary steps to ensure that the standards applicable to seafarers for the prevention of occupational accidents include the aspects listed in Article 4(3) of the Convention.***

Article 8. Programmes for the prevention of occupational accidents. In its previous comments, the Committee asked the Government to provide information on the formulation and implementation of programmes for the prevention of occupational accidents among seafarers. The Committee notes the Government's indication that the SCT and the Ministry of Shipping have competence for the matters covered by the Convention. However, the Committee observes that the Government does not indicate whether these authorities have drawn up the prevention programmes required under *Article 8*. The Committee also notes the information provided by the Government to the effect that the Ministry of Labour and Social Welfare does not have separate programmes for the prevention of accidents to seafarers, to whom the general OSH self-management programme (PASST) – of general application – applies. The Committee once again notes with *regret* that the information provided by the Government refers to generally applicable OSH programmes, whereas the Convention requires specific maritime programmes to be drawn up in cooperation with shipowners' and seafarers' organizations. ***The Committee therefore once again requests the Government to take the necessary steps to formulate and implement programmes which give effect to Article 8 of the Convention.***

Seafarers' Welfare Convention, 1987 (No. 163)

Articles 2, 5 and 6 of the Convention. Welfare facilities and services in ports and on board ship. Review of welfare facilities and services. International cooperation. In its previous comments, the Committee asked the Government to provide information on the functioning of seafarer centres (*Casas del Marino*) in various ports in the country, on the review of welfare facilities and services for seafarers, and on international cooperation in this field. The Committee notes that the Government refers once again to the General Regulations for Seafarers of 8 December 1943 but does not indicate how the seafarer centres operate in practice. Furthermore, the Committee notes that the Government once again refers to section 214 of the Federal Labour Act, which provides that the Federal Executive Authority shall determine how services in seafarer centres shall be maintained and improved, without indicating whether any regulations have been promulgated under the aforementioned section. The Committee recalls that, under *Article 2* of the Convention, each Member undertakes to ensure that adequate welfare facilities and services are provided for seafarers both in port and on board ship. Such services shall be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry (*Article 5*). Moreover, each Member undertakes to cooperate with other Members with a view to ensuring the application of the Convention (*Article 6*). ***The Committee once again requests the Government to indicate the measures taken to give effect to these provisions of the Convention.***

Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)

Article 4(c) of the Convention. Right to visit a medical doctor. In its previous comments, the Committee asked the Government to take the necessary measures to guarantee seafarers the right to visit a doctor without delay in ports of call where practicable. The Committee notes the Government's indications that: (a) seafarers have the unrestricted right to medical consultations in ports of arrival; and (b) seafarers may use IMSS hospitals in Mexican ports and are covered for medical assistance abroad by the insurance policies concluded by shipowners with "protection and compensation associations". While noting this information, the Committee observes that the Government does not indicate the legal provisions which ensure compliance with *Article 4(c)* of the Convention, according to which seafarers must be guaranteed the right to visit a doctor without delay in ports of call where practicable. ***The Committee firmly requests the Government to provide the aforementioned information.***

Article 5(4) and (5). Inspection at regular intervals of the medicine chest. Checking of the labelling. In its previous comments, the Committee asked the Government to take steps to give effect to the specific requirements relating to the regular inspection of the medicine chest on board at intervals not exceeding 12 months and the checking of the

labelling, expiry dates and conditions of storage of all medicines contained in the medicine chest, in accordance with *Article 5* of the Convention. The Committee notes the Government's indications that: (a) the Merchant Shipping Department is responsible for the application of Mexican Official Standard NOM-034-SCT4-2009 of 24 February 2009 concerning OSH conditions for the handling, transportation and storage of hazardous chemicals, which stipulates that a medicine chest must be carried on board; and (b) maritime safety inspections are ongoing and can be conducted at any time. However, the Committee observes that the information provided by the Government does not indicate how such inspections are ensured at regular intervals not exceeding 12 months or whether the requirements for storage of the medicines listed in *Article 5(4)* and *(5)* are checked. ***The Committee therefore once again requests the Government to provide information on the intervals at which on-board medicine chests are inspected, and on the checking of compliance with the provisions of the Convention regarding the labelling and storage of medicines.***

Article 7. Medical advice by radio or satellite communication. In its previous comments, the Committee asked the Government to indicate the manner in which it is ensured that vessels can obtain medical advice at any time of day by radio or satellite communication, in accordance with *Article 7*. The Committee notes with ***regret*** that the Government once again refers in this regard to the Maritime Safety Inspection Regulations of 12 May 2004, which require vessels to carry radio communication equipment on board. The Committee recalls that the existence of radio communication equipment on board is not sufficient to ensure the availability of medical advice on vessels on the high seas at any time of day or night, in accordance with *Article 7*. ***The Committee therefore once again requests the Government to indicate the measures taken to give effect to this Article of the Convention.***

Article 8. Presence of a medical doctor on board ships. In its previous comments, the Committee drew the Government's attention to the fact that neither the Maritime Safety Inspection Regulations nor the Federal Labour Act specify the ships or categories of ships which are required to carry a medical doctor as a member of the crew. In this regard, the Committee notes that the Government once again refers to section 204(VIII) of the Federal Labour Act, under which employers are obliged to carry medical staff and equipment on board as established by the laws and regulations on maritime communications. ***In view of the fact that the provisions referred to by the Government do not meet the requirements of Article 8, the Committee once again requests the Government to indicate the measures taken to ensure that ships covered by the Convention carry a medical doctor as a member of the crew.***

Article 9. Training courses for persons in charge of medical care. In its previous comments, the Committee reminded the Government that training courses for persons in charge of medical care on board vessels who are not doctors must meet the requirements of *Article 9*, such as being approved by the competent authority and being based on the content of the relevant international guides. The Committee notes the Government's indications that the Nautical Academies and the Education Centre provide senior and junior Merchant Navy officers with training courses which conform to the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), including courses in basic first aid, medical first aid and medical care. The Committee also notes the Government's indication that these courses are approved at the national level by the Ministry of Public Education and the Maritime Authority, while the qualifications and validations issued are recognized at the global level by the International Maritime Organization. The Committee notes this information, which meets the requirements of the Convention.

Article 11. Hospital accommodation. In its previous comments, the Committee drew the Government's attention to the fact that the national legislation does not give effect to *Article 11*, which stipulates that in any ship of 500 or more gross tonnage, carrying 15 or more seafarers and engaged in a voyage of more than three days' duration, separate hospital accommodation must be provided. In this regard, the Committee notes with ***regret*** that the Government refers once again to section 49 of the Federal OSH Regulations of 13 November 2014, which regulate the provision of preventive occupational medical services. The Committee reiterates that the aforementioned Regulations are of a general nature and do not contain provisions determining the type of vessel in which separate hospital accommodation is required or describing the particular features of such hospital accommodation. ***The Committee therefore requests the Government once again to take the necessary steps to give effect to Article 11 of the Convention.***

Repatriation of Seafarers Convention (Revised), 1987 (No. 166)

Article 2(1)(c) of the Convention. Repatriation in the event of illness, injury or other medical condition. In its previous comments, the Committee noted that, under section 204(VII) of the Federal Labour Act, employers have the obligation to provide seafarers with food and accommodation, medical treatment and medicines in the event of illness, but that there is no mention of shipowners' responsibility to bear the cost of repatriation for a sick or injured seafarer who is put ashore during the voyage as a result of illness or injury. The Committee notes the Government's indication that the Federal Labour Act does not specifically establish the obligation to cover repatriation expenses in such circumstances. However, the Government indicates that this obligation derives from article 123(XXVI) of the Constitution, which provides that employment contracts concluded between a Mexican citizen and a foreign employer shall clearly specify that the cost of repatriation shall be borne by the employer. The Committee observes that this provision of the Constitution does not regulate the repatriation of seafarers on vessels flying the Mexican flag or not under foreign ownership. ***The Committee once again requests the Government to take the necessary measures to ensure that all seafarers have the right to be repatriated at the expense of the shipowner, in accordance with Article 2(1)(c) of the Convention.***

Article 2(1)(e) and (f). Repatriation in the event of the inability of the shipowner to continue to fulfil legal or contractual obligations or in the event that a seafarer does not consent to go to a war zone. In its previous comments, the Committee asked the Government to take steps to ensure that seafarers have the right to be repatriated under the circumstances provided for in *Article 2(1)(e)* – namely, in the event of the shipowner not being able to continue to fulfil his or her legal or contractual obligations as an employer of the seafarer by reason of bankruptcy, sale of ship or any other similar reason – and in *Article 2(1)(f)* – namely, in the event of a ship being bound for a war zone to which the seafarer does not consent to go. The Committee notes the Government’s indication that section 204(IX) of the Federal Labour Act guarantees repatriation regardless of the reason. However, the Committee notes with **regret** that the aforementioned section excludes from its scope situations of separation for reasons that cannot be ascribed to the employer, which can include the cases listed in *Article 2(1)(e)* and *(f)*. ***In view of the fact that section 204(IX) of the Federal Labour Act does not give adequate effect to Article 2(1)(e) and (f), the Committee once again requests the Government to take steps to ensure that the shipowner is obliged to bear the cost of repatriation, in accordance with Article 2(1)(e) and (f).***

Article 2(1)(g). Repatriation in the event of termination or interruption of employment in accordance with an industrial award or collective agreement. In its previous comments, the Committee drew the Government’s attention to the absence of provisions in the national legislation on the right to repatriation in the event of the interruption or termination of employment in accordance with an industrial award or collective agreement. In this regard, the Committee notes that the Government refers to section 209(V) and (VI) of the Federal Labour Act. However, the Committee notes with **regret** that the aforementioned section only guarantees repatriation in the event of the loss of the ship through seizure or disaster, or in the event of a change of nationality. Hence it does not cover cases of termination or interruption of employment in accordance with an industrial award or collective agreement. ***In view of the fact that section 209(V) and (VI) of the Federal Labour Act does not give adequate effect to Article 2(1)(g), the Committee once again requests the Government to take steps to ensure that the shipowner is obliged to bear the cost of repatriation, in accordance with Article 2(1)(g).***

Article 2(2). Maximum duration of service periods. In its previous comments, the Committee drew the Government’s attention to the absence of provisions on the maximum duration of service periods on board following which seafarers are entitled to repatriation. In this respect, the Committee notes with **regret** that the Government refers to sections 6 and 18 of the Federal Labour Act and article 133 of the Constitution. The Committee recalls that *Article 2(2)* requires national laws or regulations or collective agreements to prescribe the maximum duration of service periods on board following which seafarers are entitled to repatriation. ***The Committee therefore once again requests the Government to take the necessary steps to ensure that this duration is prescribed by national laws or regulations or collective agreements.***

Article 3. Destinations for repatriation. In its previous comments, the Committee drew the Government’s attention to the absence of provisions establishing the right of seafarers to choose from among the prescribed destinations for repatriation. In this respect, the Committee notes that the Government refers to section 209(V) and (VI) of the Federal Labour Act. The Committee notes with **regret** that the aforementioned section only covers repatriation in the event of the loss of the ship through seizure or disaster, or in the event of a change of nationality for the ship, and does not allow seafarers in such situations to choose between different destinations. The Committee notes with **regret** the Government’s indication that sections 6 and 18 of the Federal Labour Act and article 133 of the Constitution give effect to *Article 3*. However, the Committee recalls that *Article 3(1)* requires national laws or regulations to prescribe the destinations to which seafarers may be repatriated. ***The Committee therefore once again requests the Government to adopt the necessary legislation to give effect to Article 3.***

Articles 4 and 5. Responsibility of the shipowner to arrange for repatriation. In its previous comments, the Committee asked the Government to take steps to ensure the shipowner’s compliance with the obligation to arrange for repatriation through prompt and appropriate means. The Committee notes that the Government refers to section 209(V) and (VI) of the Federal Labour Act. However, the Committee observes that the aforementioned section guarantees repatriation only in the event of the loss of the ship through seizure or disaster, or in the event of a change of nationality for the ship. The Committee notes with **regret** that these provisions do not cover all the cases of repatriation envisaged in the Convention, do not specify which elements listed in *Article 4* must be included in the cost of repatriation, and do not clarify how repatriation is to be arranged if the shipowner fails to make the necessary arrangements in accordance with *Article 5*. ***In view of the fact that section 209(V) and (VI) of the Federal Labour Act does not give adequate effect to Articles 4 and 5 of the Convention, the Committee once again requests the Government to take steps to ensure that repatriation is arranged for in accordance with the provisions of the Convention.***

Article 6. Passport and other identity documents. In its previous comments, the Committee asked the Government to specify how it is ensured that seafarers who are to be repatriated are able to obtain their passport and other identity documents. The Committee notes that the Government indicates that the National Institute for Migration (INM) is responsible for making arrangements for entry into the countries of repatriation. While noting this information, the Committee recalls that *Article 6* seeks to protect seafarers from situations in which they are obliged to surrender their passport to the shipowners, captain or employment agency, as a result of which they could be without an identity document at the time of repatriation. ***The Committee therefore once again requests the Government to clarify how it is ensured that seafarers can retain their passport or other identity documents for the purpose of repatriation.***

Article 7. Paid leave. In its previous comments, the Committee drew the Government's attention to the fact that the national legislation does not contain any provision ensuring that time spent awaiting repatriation and repatriation travel time is not deducted from paid leave accrued to the seafarer. The Committee notes that the Government refers to the direct application of the Convention and indicates that sections 6 and 18 of the Federal Labour Act and article 133 of the Constitution give effect to *Article 7*. The Committee notes this information, which responds to its previous requests.

Article 12. Availability of the text of the Convention in an appropriate language. In its previous comments, the Committee asked the Government to indicate the manner in which the text of the Convention in an appropriate language is made available to the crew members of every ship registered in its territory. The Committee notes the Government's indication that consultations will be held with the Merchant Shipping Department on the possibility of disseminating the text of the Convention in English and Spanish to the crew members of every seagoing vessel registered in its territory. ***The Committee requests the Government to provide up-to-date information, further to consultations with the Merchant Shipping Department, on the application of this provision of the Convention.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 22** (Brazil, Iraq, Papua New Guinea, United Kingdom: Anguilla); **Convention No. 23** (Azerbaijan, Iraq, United Kingdom: Anguilla); **Convention No. 55** (Peru); **Convention No. 56** (Peru); **Convention No. 68** (Guinea-Bissau); **Convention No. 69** (Guinea-Bissau); **Convention No. 92** (Azerbaijan, Iraq, Republic of Moldova); **Convention No. 108** (Guinea-Bissau, Romania, Saint Lucia, Saint Vincent and the Grenadines, Solomon Islands, United Kingdom: Anguilla); **Convention No. 133** (Azerbaijan, Brazil); **Convention No. 134** (Azerbaijan); **Convention No. 146** (Brazil, Iraq); **Convention No. 147** (Azerbaijan, Brazil, Iraq, Trinidad and Tobago); **Convention No. 163** (Brazil); **Convention No. 164** (Brazil); **Convention No. 166** (Brazil); **Convention No. 178** (Brazil); **Convention No. 186** (Argentina, Australia, Bahamas, Bangladesh, Benin, Bosnia and Herzegovina, Cabo Verde, China, Ghana, Honduras, Hungary, India, Islamic Republic of Iran, Ireland, Japan, Kenya, Liberia, Malta, Mongolia, Montenegro, New Zealand, Nigeria, Philippines, Saint Kitts and Nevis, South Africa, Switzerland, Togo, United Kingdom: Bermuda).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 68** (Egypt); **Convention No. 108** (Ireland, Malta).

Fishers

Guinea

Medical Examination (Fishermen) Convention, 1959 (No. 113) (ratification: 1960)

Articles 2 to 5 of the Convention. Medical certificate. For 13 years, the Committee has been requesting the Government to provide information on the legislative texts giving effect to the specific requirements of *Articles 3 to 5* of the Convention. In its previous comment, the Committee noted the Government's indication that a review of the Merchant Navy Code had been launched in early 2015 with a view to adapting it to current realities, taking account of ratified international Conventions. The Committee notes that the Government indicates in its report that the Merchant Navy Code is still under review and promises to send a copy of it once the review has been completed. In this regard, the Committee recalls that the review of the Merchant Navy Code should take into consideration the issues of non-conformity with the Convention that have been raised for many years. These concern the obligation to produce a medical certificate prior to being engaged for employment on a fishing vessel (*Article 2*); the prescription of the nature of the medical examination to be made and the particulars to be included in the medical certificate (*Article 3*); the period of validity of medical certificates for young fishers not exceeding one year (*Article 4*); and the possibility of applying for a further examination if the certificate has been refused (*Article 5*). ***In view of the foregoing, the Committee requests the Government to take any necessary measures to give full effect to the provisions of the Convention.***

Russian Federation

Medical Examination (Fishermen) Convention, 1959 (No. 113) (ratification: 1969)

Accommodation of Crews (Fishermen) Convention, 1966 (No. 126) (ratification: 1969)

The Committee notes the Government's reports on the application of the Conventions related to fishing. In order to provide an overview of the issues relating to the application of these Conventions, the Committee considers it helpful to examine them in a single comment as follows.

Medical Examination (Fishermen) Convention, 1959 (No. 113)

Article 5 of the Convention. Additional medical examination by a medical referee. In its previous comments, noting the Government's repeated indications that implementing legislation was in the process of being adopted, the Committee requested the Government to indicate the measures taken to ensure that a person who, after a medical examination, has been refused a certificate may apply for a further examination by an independent medical referee, as required by *Article 5* of the Convention. The Committee notes the Government's statement that a draft Order of the Ministry of Health on approval of the procedure for conducting examinations of occupational fitness and forms of medical assessment of fitness to perform specific types of work, is currently undergoing a public consultation process. Moreover, the Committee notes the Government's indication that, with respect to fishing, which is regulated by the Merchant Shipping Code, the procedure for carrying out medical examinations and the form of medical assessment of the absence of medical contraindications to work on a vessel are established by the federal executive body responsible for the development of the state policy and legal regulation in the sphere of healthcare in agreement with the federal executive body responsible for transport. The Committee notes however that, according to the Government, this procedure has not been established. The Committee recalls that the issue of not having implementing legislation which regulates the procedure for filing an appeal where the fisher has been refused a medical certificate has been pending for many years. ***The Committee therefore requests the Government to adopt the necessary measures to implement Article 5 of the Convention without delay.***

Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)

Article 3(1) of the Convention. Laws and regulations on crew accommodation. In its previous comments, the Committee noted the lack of substantive progress in the adoption of legislation giving full effect to the provisions of the Convention and expressed the hope that the relevant legislation would be adopted in the near future. It also noted that, in previous reports, the Government had reiterated that it was in the process of preparing draft legislation which would replace the 1977 Regulations on sanitary rules for Soviet vessels and boats, in order to ensure conformity with the provisions of the Work in Fishing Convention, 2007 (No. 188). In this regard, the Committee notes the Government's indication that the Rules of the Russian Maritime Register of Shipping regulate merchant shipping vessels but contain no special requirements for accommodation on fishing vessels. The Government further indicates that amendments to the Merchant Shipping Code and a number of legislative acts are currently under discussion in the State Duma in order to define the concept of fishing vessel and improve the safety of shipping and navigation. While noting this information, the

Committee notes with *regret* that no substantive progress has been made regarding amending the legislation to bring it into conformity with the Convention. *Recalling that the Committee has been drawing the Government's attention for a number of years to the need to adopt laws and regulations giving effect to a series of provisions of the Convention, the Committee requests the Government once again to adopt the necessary measures without delay.*

The Committee is raising other matters regarding Convention No. 126 in a request addressed directly to the Government.

Sierra Leone

Fishermen's Competency Certificates Convention, 1966 (No. 125) ***(ratification: 1967)***

The Committee notes with *deep concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2005.

Articles 3–15 of the Convention. Certificates of competency. The Committee has been commenting for a number of years on the absence of laws and regulations giving effect to the Convention. *The Committee asks the Government to provide detailed information on any concrete progress made in respect of the adoption of national laws implementing the Convention.* The Committee understands that the Office remains ready to offer expert advice and to respond favourably to any specific request for technical assistance in this regard. *Finally, the Committee requests the Government to supply up-to-date information concerning the fishing industry, including statistics on the composition and capacity of the country's fishing fleet and the approximate number of fishers gainfully employed in the sector.*

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 112** (Guatemala); **Convention No. 113** (Costa Rica, Cuba, Guatemala, Montenegro); **Convention No. 114** (Costa Rica, Ecuador, Guatemala, Montenegro, Panama); **Convention No. 125** (Brazil, France: French Polynesia, Panama); **Convention No. 126** (Brazil, France: French Polynesia, Panama, Russian Federation, Sierra Leone).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 113** (Brazil, Ecuador).

Dockworkers

Congo

Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) (ratification: 1986)

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2008.

The Committee notes with *regret* that the report submitted by the Government is identical to the most recent report submitted by the Government in 2007 which formed the basis for the Committee's observation in 2008 repeated in 2009, 2010 and 2011 for lack of a response from the Government. ***The Committee urges the Government to solicit technical assistance of the ILO to resolve any problems related to the application of this Convention, and hopes that a report will be supplied for examination by the Committee at its next session. In the meantime and in the absence of any new information, the Committee must, yet again, repeat its previous observation which read as follows:***

The Committee notes the information provided by the Government according to which a national advisory technical committee on occupational safety and health has been set up pursuant to Decree No. 2000-29 of 17 March 2000 which gives effect to *Article 7 of the Convention*. It also notes, however, that the information requested concerning *Articles 2, 4, 5, 6 and 11–36* are to be provided by the Government subsequently. As regards the further information the Committee has requested the Government to provide, the Committee notes that the Government has either not replied to questions raised by the Committee in its previous comments or it has provided information that is applicable to enterprises in general. The Government appears to imply that dockworkers should be treated in the same manner as other workers and ports be treated like any other enterprise. ***With reference to Articles 4–7, the Committee wishes to recall that the Government is required to take measures to give effect to the specific provisions in the Convention. The Committee must therefore once again repeat its previous observation which read as follows:***

The Committee draws the Government's attention to the absence of specific health and safety provisions for dock work. The Committee noted previously that a draft Order on safety and health in dock work had been prepared by the technical departments of the Ministry of Labour and Social Security. In its report for the period ending 30 June 1993, the Government repeated this information and added that the draft had been submitted for adoption. The Committee hopes that the provisions of this text will ensure the application of the following provisions of the Convention: *Article 4* (objectives and areas to be covered by measures to be established by national laws and regulations, in accordance with Part III of the Convention); *Article 5* (responsibility of employers, owners, masters or other persons as appropriate, for compliance with safety and health measures; duty of employers to collaborate whenever two or more of them undertake activities simultaneously at one workplace); *Article 7* (consultation of and collaboration between employers and workers). ***It asks the Government to provide a copy of the above Order as soon as it has been adopted.***

In its previous reports, the Government referred to Orders No. 9033/MTERFPPS/DGT/DSSHT on the organization and functioning of the socio-medical centres of enterprises in the People's Republic of the Congo and No. 9034/MTERFPPS/DGT/DSSHT laying down the procedures for the establishment of socio-medical centres which are common to several enterprises in the People's Republic of the Congo. ***Since these texts have not been received, the Committee would be grateful if the Government would provide a copy of them.***

Article 6. The Committee notes from the Government's report for the period ending 30 June 1993 that briefings are to be organized to inform workers about safety provisions in the place of work at which heads of establishment can alert them about the dangers arising from the use of machinery and the precautions to be taken. ***The Committee asks the Government to provide a copy of the provisions concerning the organization of these briefings and the measures taken to give effect to paragraph 1(c) of this Article.***

Article 8. The Committee notes the Government's statement in its report for the period ending 30 June 1993 that all safety measures are provided for in Chapter II of Order No. 9036 of 10 December 1986. The Committee notes that the above part of the Order provides for general protective measures whereas the Convention requires the adoption of measures specific to dock work. ***It asks the Government to indicate which provisions require the adoption of effective measures (fencing, flagging or other suitable means including, when necessary, cessation of work) to ensure that when the workplace has become unsafe, workers are protected until it has been made safe again.***

Article 14. The Committee notes from the Government's report for the period ending 30 June 1993 that the application of this Article is ensured by labour inspectors by means of inspections in enterprises. ***The Committee asks the Government to indicate which provisions ensure that electrical equipment and installations are so constructed, installed, operated and maintained as to prevent danger, and which standards for electrical equipment and installations have been recognized by the competent authorities.***

Article 17. The Committee notes that section 41 of Order No. 9036, cited by the Government in its report for the period ending 30 June 1993 as giving effect to this Article of the Convention, includes specific measures only for the use of lifting gear in particular weather conditions (wind). ***The Committee asks the Government to indicate the measures taken to ensure that the means of access to a ship's hold or cargo deck are in conformity with the provisions of this Article.***

Article 21. The Committee notes the provisions of sections 47–49 of Order No. 9036 which the Government cites in its report for the period ending 30 June 1993 as giving effect to this Article of the Convention. It notes that the above sections provide for protective measures for some machinery or parts of machines which can be dangerous. ***It asks the Government to indicate the measures taken or envisaged to ensure that all lifting appliances, every item of loose gear and every sling or lifting device forming an integral part of a load comply with the provisions of the Convention.***

Articles 22, 23, 24 and 25. Further to its previous comments, the Committee notes that, in its report for the period ending 30 June 1993, the Government refers to the certification of machinery, including lifting appliances, which is conducted by technical inspectors and advisory bodies, as a general measure to ensure that lifting appliances are sound and in proper working order. However, these Articles of the Convention provide for a set of measures to ensure that appliances and loose gear can be used by workers without any danger or risk: testing of all lifting appliances and loose gear (every five years in ships); thorough

examination (at least once every 12 months); regular inspection before use. *The Committee asks the Government to indicate the provisions requiring the above measures to be taken in respect of all lifting appliances – on shore and on board – and of all loose gear.*

Article 30. The Committee notes that section 43 of Order No. 9036 referred to by the Government, does not relate to the attaching of loads to lifting appliances. *It asks the Government to indicate which provisions relate to this matter.*

Article 34. *The Committee asks the Government to provide a copy of the instructions concerning the wearing of personal protective equipment referred to by the Government in its report for the period ending 30 June 1993.*

Article 35. Further to its previous comments, the Committee notes that section 147 of the Labour Code regulates the evacuation of injured persons who are able to be moved and who are not able to be treated by the facilities made available by the employer. It notes that the Government also refers in its reports to Orders Nos 9033 and 9034 mentioned in paragraph 2 above. *The Committee asks the Government to indicate the measures taken either under the above texts, or otherwise, to ensure that adequate facilities, including trained personnel, are available for the provision of first aid.*

Article 37(1). The Committee recalls that, under this provision of the Convention, committees which include employers' and workers' representatives must be formed at every port where there is a significant number of workers. *Recalling the Government's statement that the health and safety committees provided for by the law have not been formed, the Committee asks the Government to indicate the measures taken to ensure the establishment of such committees in ports with a significant number of workers.*

Article 38(1). The Government indicates in its report that, in the absence of health and safety committees, instruction and training are entrusted to a specialist in the matter within the enterprise. *The Committee asks the Government to provide information on the activities of these specialists.*

Article 39. The Committee notes that section 61 of Act No. 004/86 of 25 February 1986 establishing the Social Security Code gives effect in part to this Article of the Convention. *It asks the Government to indicate the provisions which ensure that this Article is applied to occupational diseases.*

Article 41(1)(a). Further to its previous comments, the Committee notes that the Government refers to Order No. 9036 of 10 December 1986 as being the text which lays down general obligations for the persons and bodies concerned with dock work (ports being treated as any industrial enterprise) and that no specific measures have been taken in respect of dock work. *The Committee asks the Government to indicate the measures taken or envisaged to set out the specific obligations taken for the persons and bodies concerned with dock work.*

In the absence of any information on the application of the above provisions, the Committee asks the Government to indicate the specific measures which give effect to the following provisions of the Convention:

- *Article 9(1) and (2).* Safety measures with regard to lighting and marking of dangerous obstacles.
- *Article 10(1) and (2).* Maintenance of surfaces for traffic or stacking of goods and safe manner of stacking goods.
- *Article 11(1) and (2).* Width of passageways and separate passageways for pedestrians.
- *Article 16(1) and (2).* Safe transport to or from a ship or other place by water, safe embarking and disembarking, and safe transport to or from a workplace on land.
- *Article 18(1)–(5).* Regulations concerning hatch covers.
- *Article 19(1) and (2).* Protection around openings and decks, closing of hatchways when not in use.
- *Article 20(1)–(4).* Safety measures when power vehicles operate in the hold; hatch covers secured against displacement; ventilation regulations; safe means of escape from bins or hoppers when dry bulk is being loaded or unloaded.
- *Article 26(1)–(3).* Members' mutual recognition of arrangements for testing and examination.
- *Article 27(1)–(3).* Marking lifting appliances with safe working loads.
- *Article 28.* Rigging plans.
- *Article 29.* Strength and construction of pallets for supporting loads.
- *Article 31(1) and (2).* Operation and layout of freight container terminals and organization of work in such terminals.
- *Article 38(2).* Minimum age limit for workers operating lifting appliances.

The Committee expects that the Government will make every effort to take the necessary action in the near future.

Guyana

Dock Work Convention, 1973 (No. 137) (ratification: 1983)

The Committee notes with *concern* that, since 2002, it has repeatedly requested the Government to communicate information to enable it to determine the manner in which the Convention is given effect in Guyana. It notes the Government's brief report, which indicates that the working arrangements for dockworkers are not structured and organized. The Government adds that dockworkers are basically freelancers operating informally in the private sector and that, therefore, it is difficult to ascertain whether the provisions of the Convention are applied. In this respect, the Committee recalls that the Convention does not exclude independent workers. *Article 1(1)* of the Convention provides that it applies to all persons who are regularly available for work as dockworkers and who depend on dock work for their main annual income. *The Committee therefore requests the Government to provide detailed information on the manner in which compliance with the provisions of the Convention is ensured. It further requests the Government to communicate the number of dockworkers in all occupational categories on the registers maintained in accordance with Article 3(1) of the Convention, and of any variations in their numbers (Part V of the report form).*

The Committee expects that the Government's next report will contain full information in response to its previous comments.

Republic of Moldova

Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) (ratification: 2007)

The Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014.

Legislation. The Committee notes the information provided in the Government's report on the effect given to the Convention. It takes due note of the Occupational Health and Safety Act (RM No. 186-XVI of 10 July 2008) (hereinafter, the OSH Act) as well as the Safety Rules for Work On-Board Inland Navigation Vessels, on the Operation of the Vessel's Lifeboats and Lifesaving Equipment (hereinafter, the Safety Rules for Work On-Board Inland Navigation Vessels) referenced by the Government. However, it notes that the Government has not provided the specific legislation and regulatory provisions giving effect to the Convention. ***The Committee asks the Government to indicate, in its next report, the relevant provisions giving effect to each Article of the Convention and to communicate the text of these provisions, as well as a copy of the Safety Rules for Work On-Board Inland Navigation Vessels, if possible in one of the working languages of the Office.***

The Committee also notes that the Giurgiulesti International Free Port (GIFP), capable of receiving both inland and seagoing vessels, boasts an easy access to the Black Sea and is increasingly important in the region. ***Consequently, the Committee asks the Government to transmit the GIFP Port Rules, and any standards or rules applicable to employers and workers, once they are adopted.***

Article 1 of the Convention. Dock work. The Committee recalls that this Article of the Convention provides that the organizations of employers and workers concerned shall be consulted on, or otherwise participate in, the establishment and revision of the definition of dock work. ***The Committee asks the Government to provide information on the employers' and workers' organizations concerned and the manner in which they were consulted in establishing the definition of "dock work".***

Article 5(1). Responsibility for compliance with the measures referred to in Article 4(1). The Committee notes that according to the Government, section 10(1) of the OSH Act provides that the employer shall take the necessary measures to protect the health and safety of workers, including preventing occupational risks, providing information and training and ensuring the necessary organization and provision of resources. ***The Committee asks the Government to provide further information on the national laws or regulations which make appropriate persons responsible for compliance with all of the measures referred to in Article 4 of the Convention.***

Article 6(1). Measures to ensure the safety of portworkers. The Committee notes the Government's indication that periodic briefings are held with the employees of companies on safety techniques and training in safe working methods and approaches, and instructions have been developed in safety techniques. ***The Committee asks the Government to provide further information on the measures taken or envisaged to give effect to this Article of the Convention.***

Article 7(2). Provisions for close collaboration between employers and workers. The Committee notes the Government's indication that a trade union committee has been set up to ensure closer cooperation between workers and employers and to resolve any disputes that may arise. ***The Committee asks the Government to provide further details on the trade union committee and its work to ensure the application of the measures referred to in Article 4(1) of the Convention.***

Article 14. Installation, construction, operation and maintenance of electrical equipment. The Committee notes the Government's indication that the State Power Supply Inspectorate (Gosenergonadzor) approved rules on user operation of electrical installations and safety regulations on the operation of electrical installations. ***The Committee asks the Government to provide further details on the specific rules and safety regulations, regarding the operation of electrical installations, that give effect to this Article of the Convention.***

Article 15. Adequate and safe means of access to the ship during loading or unloading. The Committee notes that the information provided by the Government repeats the terms of the Article, without providing specific information on the manner in which safe means of access to the ship shall be provided and kept available, in accordance with this Article. ***The Committee requests the Government to describe the safe means of access required when a ship is being loaded or unloaded alongside a quay or another ship.***

Article 16. Safe transport to or from a ship or other place by water, safe embarking and disembarking, and safe transport to or from a workplace on land. The Committee notes the Government's reference to paragraph 2 of rule 2.4 of the Safety Rules for Work On-Board Inland Navigation Vessels, which provides that operational boats shall be provided on all vessels more than 25 metres in length, except for high-speed and other passenger vessels operating within cities and crewless non-self-propelled vessels. However, the Committee notes that this provision does not ensure the full application of this Article of the Convention. ***The Committee requests the Government to provide further details on the measures prescribed for the safe embarking and disembarking, and safe transport of workers, in accordance with Article 16.***

Article 17. Access to the hold or deck of a vessel. The Committee notes that the information provided by the Government repeats the terms of this Article, without providing specific information on the application of this Article. ***The Committee asks the Government to provide details on the means of access to a ship's hold or cargo deck, in accordance with paragraph 1(b) of this Article.***

Article 34(1). Provision and use of personal protective equipment. The Committee notes that the information provided in the Government's report repeats the terms of this Article, without providing specific information on the effect given to this Article. ***The Committee asks the Government to describe the circumstances in which the issue and use of personal protective equipment and protective clothing is required.***

Article 36(1). Medical examinations. The Committee notes the Government's indication that consultations are held with employers at annual general meetings and that the Ungheni River Port, in consultation with the industry trade union representing the interests of workers, is about to conclude a three-year collective agreement. ***The Committee asks the Government to indicate the manner in which employers' and workers' organizations of all the ports in the Republic of Moldova were consulted regarding medical examinations.***

Article 38(1). Provision of adequate training and instruction. The Committee notes the Government's indication that instructions given to workers shall be formulated for all occupations and tasks performed at the company, on the basis of their

specific characteristics and the specific nature of the tasks and workstations. *The Committee asks the Government to indicate how instruction and training is provided to workers employed in dock work.*

In addition, in the absence of any information on their application, the Committee requests the Government to provide details on the measures taken or envisaged, in law and in practice, to give full effect to the following provisions of the Convention:

- Article 6(2).
- Article 7(1).
- Article 8.
- Article 9.
- Article 10.
- Article 11.
- Article 12.
- Article 13(1)–(3) and (5)–(6).
- Article 19.
- Article 20.
- Article 21.
- Article 22(3) and (4).
- Article 24.
- Article 25.
- Article 26.
- Article 31.
- Article 32.
- Article 34(2) and (3).
- Article 35.
- Article 36(2) and (3).
- Article 37.
- Article 38(2).
- Article 39.
- Article 40.
- Article 41.

Application of the Convention in practice. The Committee notes that the Government's report does not contain any information regarding the application in practice of the provisions giving effect to the Convention. *The Committee accordingly requests the Government to give a general appreciation of the manner in which the Convention is applied in the country and provide information on the number of dock workers employed, the number and nature of contraventions reported, the resulting action taken and the number of occupational accidents and diseases reported, and attach relevant extracts from the reports of the concerned inspection services.*

The Committee hopes that the Government will make every effort to take the necessary action in the near future.

Portugal

Dock Work Convention, 1973 (No. 137) (ratification: 1981)

Follow-up to the recommendations of the tripartite committee (representation made under article 24 of the ILO Constitution)

The Committee recalls that the Governing Body approved at its 324th Session (June 2015) the report of the Committee set up to examine the representation alleging non-observance by Portugal of the Dock Work Convention, 1973 (No. 137), submitted under article 24 of the ILO Constitution by the Union of stevedores, cargo handlers and maritime checking clerks in central and southern Portugal, the Union XXI – Trade union association of administrative staff, technicians and operators at the container cargo terminals in the Port of Sines, the Union of dockworkers in the Port of Aveiro, and the Union of stevedores, cargo handlers and checking clerks at the Port of Caniçal (GB.324/INS/7/8, 13 June 2015). The Governing Body entrusted the Committee with following up on the issues raised in the report. In that respect, the Committee requested the Government to provide information on the application of Act No. 3/2013 of 14 January 2013 on dock work and the other measures that have been adopted in a tripartite context with a view to continuing to improve working conditions and efficiency in ports (paragraph 57 of the report). The Committee also requested the Government to provide information on the measures adopted by the competent authorities and the employers' organizations that signed the agreement of 12 September 2012 for the application of the new legal framework governing the dock sector and to supply updated comparative statistical data on the number of dockworkers in the country, including the number of temporary or casual dockworkers (paragraph 83). It also asked the Government to indicate the measures adopted to bring the collective agreements in force in the various ports in the country into compliance with the new legal framework governing dock work set out in Act No. 3/2013 (paragraph 84).

The Committee notes the brief information communicated by the Government in response to its previous comments. The Government indicates that, following the approval by the Assembly of the Republic of the new legal framework governing dock work set out in Act No. 3/2013, of 14 January 2013, all the jobs of dockworkers holding permanent contracts with stevedore or dock work enterprises were retained, even those of workers performing work no longer classified as “dock work” under the new legal framework. The Government reports that in 2016 there were 1,653 dockworkers (including those with permanent, temporary and casual contracts) in mainland Portugal. However, the Committee observes that the Government does not indicate what percentage of the total of such workers were temporary or casual. On the other hand, the Government indicates that these workers enjoy good working conditions and, with a view to improving the working conditions of dockworkers, vocational training, further training and development courses have been provided to dockworkers and inspections have been carried out to verify the occupational safety and health conditions. The Government reports that 28 labour inspections were carried out in the area of dock work in 2014, while in 2015 only two inspections were conducted, in which no violations were detected. Lastly, the Committee notes that while the Government refers to the collective agreements in force that were concluded in the port sector between 2013 and 2016, it does not indicate the steps taken to bring those agreements into compliance with the new legal framework governing dock work. ***The Committee requests the Government to continue to provide information on the application of Act No. 3/2013 on dock work and any other measures adopted in a tripartite context to continue to improve the working conditions and efficiency of ports. The Committee also requests the Government to provide information on the measures adopted by the competent authorities and the employers’ organizations that signed the agreement of 12 September 2012 for the application of the new legal framework for the port sector and to include updated comparative statistical data on the number of dockworkers in the country, disaggregated by age, sex and type of contract (permanent, temporary and casual contracts). The Committee also reiterates its request to the Government to indicate the measures adopted to bring the collective agreements in force in the various ports in the country into compliance with the new legal framework governing dock work set out in Act No. 3/2013.***

Spain

Dock Work Convention, 1973 (No. 137) (ratification: 1975)

The Committee notes the observations of the Trade Union Confederation of Workers’ Commissions (CCOO) and the General Union of Workers (UGT), included in the Government’s report.

Articles 2, 3 and 5 of the Convention. National policy to encourage the provision of permanent or regular employment for dockworkers. Registered dockworkers. Cooperation between the social partners. The Committee notes the information provided by the Government on the regime applicable to dockworkers in accordance with, among other legal instruments, the consolidated text of the State Ports and Merchant Marine Act, adopted by Royal Legislative Decree No. 2/2011 of 5 September (TRLPEMM) and the Decision of the General Directorate of Employment of 17 January 2014, which provides for the registration and publication of the Fourth Agreement for the regulation of labour relations in the dock work sector. The Government indicates that, in accordance with section 151(1) of the TRLPEMM and section 6.3.1 of the Fourth Agreement, dockworkers are bound by indefinite contracts to limited liability dockworker management enterprises (SAGEPs) established in ports of general interest. The Government adds that SAGEPs keep a register of dockworkers who have a priority of engagement by port enterprises, as established in section 142 et seq. of the TRLPEMM. The Committee observes, however, that significant changes were introduced to the above regime with the adoption of Royal Legislative Decree No. 8/2017 of 12 May, which amends the regime governing workers engaged in the provision of cargo handling services in ports, in accordance with the ruling by the Court of Justice of the European Union (CJEU) of December 2014 in Case C-576/13. The CJEU ruling held that the Kingdom of Spain was not in compliance with the freedom of establishment, as it made it mandatory for enterprises from other member States wishing to conduct cargo handling activities in Spanish ports of general interest to register and have a share in the capital of a SAGEP, and to hire, as a priority, workers provided by the SAGEP, a minimum number of whom must be hired on a permanent basis. In this regard, the Committee observes that, in accordance with the explanation of the reasons for the above-mentioned Royal Legislative Decree, the new regime establishes the principle of the freedom to recruit in cargo handling services in ports. In this regard, in accordance with the Royal Legislative Decree, operators are not required to have a share in any enterprise providing dockworkers and may hire such dockworkers freely, on the condition that they meet a series of requirements for the training of these workers. The Royal Legislative Decree also provides for the establishment of port employment centres (PECs) which will manage the regular employment of dockworkers in cargo handling services in ports, and their training and temporary assignment to enterprises with a licence to provide cargo handling services in ports or the authorization to engage in commercial port services. The PECs will operate as temporary work agencies (TWAs) specific to the sector, with the legal requirement that such enterprises obtain authorization from the labour administration. Cargo handling enterprises will not be required to participate in the centres established, or to hire as a priority the workers that they provide. The Committee also notes that, in their observations, the workers’ organizations report that the new dock work regime is not in conformity with the requirements of the Convention. With regard to the establishment of measures to ensure the permanent or regular employment of dockworkers, the UGT maintains that the new regime removes the requirement for SAGEPs to hire workers permanently. It questions whether the new recruitment carried out by these enterprises or by PECs will make use of indefinite contracts, as they will be regulated by the TWAs.

Furthermore, during the period of transformation of the SAGEPs, which is planned to last three years, there will be a progressive relaxing of the requirement for cargo handling enterprises to hire workers from SAGEPs, before the requirement is removed after four years, when cargo handling enterprises will be able to freely recruit skilled dockworkers, whether through SAGEPs, PECs or TWAs, which will affect the current regular provision of services by dockworkers. The UGT indicates that this amendment has met with great opposition from trade unions representing dockworkers, not only in the media, but also through strikes, with the aim of preserving the current employment conditions. The UGT indicates that, in this context, an agreement was concluded with employers in the sector, which amended the Fourth Framework Agreement for the Dock Work Sector, with a view to including a clause referring to the subrogation of SAGEP workers in cargo handling enterprises based on their participation in SAGEPs. Ultimately, the UGT complains that, as a result of the adoption of the new regime, the employment security of dockworkers and their basic income will be affected, particularly in the case of new workers, due to the conditions of recruitment under the regime governing TWAs. With regard to the maintenance of a register of dockworkers, the UGT and the CCOO assert that, despite the claims put forward by workers' organizations, the new regulations do not establish any requirement in this regard. ***The Committee requests the Government to provide detailed and updated information on the manner in which the new regime ensures permanent or regular employment for dockworkers (Article 2(1)). It also requests the Government to indicate the minimum periods of employment and minimum income assured for casual dockworkers as a result of the implementation of the new regime and collective bargaining (Article 2(2)). The Committee also requests the Government to provide information on the procedures of the new dock work regime which govern the establishment and maintenance of registers for all categories of dockworkers, and on the manner in which priority of engagement is ensured for registered dockworkers for dock work, and on the manner in which dockworkers are required to be available for work (Article 3). Lastly, the Committee requests the Government to provide detailed information on the issues raised by the social partners, and on the results of the dialogue process, including any changes in the manner in which dock work is organized in the country (Article 5).***

Article 6. Safety, health, welfare and vocational training. The Committee notes the Government's indication that, under the previous regime, section 153 of the TRLPEMM established the qualifications required to be included in registers of dockworkers. In this regard, the Government refers, among other regulatory instruments, to Order FOM/2297/2012 of 23 October 2012, which determines the vocational training qualifications required for the provision of cargo handling services in ports, and the Decision of the State Ports of 11 April 2011, which publishes the Governing Council Decision on the minimum content of the psychological and physical aptitude tests to determine the suitability of workers wishing to engage in cargo handling activities. The Government adds that section 152 of the TRLPEMM required SAGEPs to allocate a minimum of 1 per cent of their total payroll to the continuous training of their workers to ensure their professionalism. However, the Committee notes that section 3 of the Royal Legislative Decree amends the previous regulations on the training requirements for dockworkers. Pursuant to section 3, dockworkers are required to obtain the vocational skills certificate provided for in Annex VIII (cargo handling in docks, loading, unloading and trans-shipping services) of Royal Decree No. 988/2013 of 13 December 2013, which establishes nine certificates for vocational skills in maritime work and fishing. However, section 3(2) of the Royal Legislative Decree provides that such certification will not be mandatory for certain workers, such as those who have worked over 100 days in the dock work services of any European Union Member State prior to the entry into force of the Royal Legislative Decree. In this regard, the Committee notes the UGT's indication that the application of the new training requirements raises an issue for dockworkers with temporary contracts who entered the service with the qualifications required by the previous regulations, but have not accumulated 100 days of work. The UGT indicates that such workers may be excluded as dockworkers, despite having the qualifications required under the previous regime, until they obtain the necessary vocational certification. With regard to safety, health and welfare measures, the Government indicates that Act No. 31/1995 of 8 November 1995 on the prevention of occupational hazards and its implementing provisions are applicable. The UGT adds that the new regulations on training may lead to safety problems, as they provide for the possibility of approving the certification required under the Royal Legislative Decree with the days worked in any Member State of the European Union, but do not provide that these days should be restricted to dock work, or refer to the conditions or training. ***The Committee requests the Government to provide detailed information on the issues raised by the social partners with regard to the application of the new provisions on the training of dockworkers.***

Application of the Convention in practice. The Government indicates that, on 31 March 2017, 6,165 dockworkers had been registered, of whom 1,487 were registered in the Port of Algeciras, 1,455 in Valencia and 1,030 in Barcelona. ***The Committee requests the Government to provide a general assessment of the manner in which the Convention is applied in the country, including, for example, extracts from reports and data on the number of dockworkers and on the variations in their numbers over time.***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 27** (Kyrgyzstan, Papua New Guinea); **Convention No. 32** (Croatia, Singapore); **Convention No. 137** (Afghanistan, Costa Rica, France, Iraq, Russian Federation).

Indigenous and tribal peoples

General observation

Indigenous and Tribal Peoples Convention, 1989 (No. 169)

Throughout its 100 years of existence, the matter of indigenous peoples has always been on the ILO agenda. On the occasion of the 30th anniversary of the adoption of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Committee wishes to highlight some important advances made in the application of this instrument which the Committee has been able to note in its examination of the measures taken by the States that have ratified it. This anniversary also allows the Committee to underline some of the difficulties which continue to hamper the full realization of the rights of indigenous and tribal peoples enshrined in the Convention.

The Convention is the only international treaty that comprehensively and specifically covers the rights of indigenous and tribal peoples. The Committee recalls that the Convention revises the Indigenous and Tribal Populations Convention, 1957 (No. 107), which aimed at the integration of indigenous and tribal populations into the national communities of States. Considering that this approach was regarded as outdated, Convention No. 169 embodies the principles of respect for the cultural integrity of indigenous peoples, recognizing their value, and of their participation in decisions that affect them. To date, a total of 23 countries have ratified Convention No. 169. At its 328th Session (October–November 2016), the Governing Body requested the Office to commence follow-up with the member States currently bound by Convention No. 107, encouraging them to ratify Convention No. 169 as the most up-to-date instrument in this subject area.

With regard to the *identification* of indigenous and tribal peoples, the Committee has underscored the importance of guaranteeing that all peoples who meet the criteria provided for in the Convention, independent of their legal recognition in national legislation, enjoy the rights recognized in this instrument. The Convention enumerates a set of objective criteria to identify indigenous and tribal peoples. It provides that self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply. Thus self-identification constitutes the subjective criterion which complements the objective criteria. The Committee has noted that many countries sent detailed statistical information in relation to the number and geographical location of indigenous and tribal peoples. In addition, it should be noted that when conducting population census, some countries applied the criteria of self-identification. In this respect, the Committee reiterates that having reliable statistical data on the indigenous population, their location and socio-economic conditions constitutes an essential tool for effectively guiding and defining policies relating to indigenous peoples, as well as for monitoring the impact of the action carried out. All this is also crucial to enable governments to take appropriate measures to recognize, protect and value the cultural and social identity, customs and traditions of indigenous peoples.

The Committee notes that the fundamental concept of the Convention is the right of indigenous peoples to *participate* effectively in decisions that may affect them, as well as in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly. In order to ensure effective participation, the Committee considers it key to develop and strengthen institutions with the participation of indigenous peoples. Several countries have established bodies tasked with formulating and coordinating national policy on indigenous matters, whether these be ministries or vice-ministries responsible for foreign affairs, advisory councils, coordinating bodies or independent institutions. In some countries, a cross-cutting approach has been adopted through the establishment of specifically dedicated areas in most ministries and public institutions. Furthermore, other countries have created permanent dialogue and participation forums. Irrespective of the type of structure established, the Committee has noted on various occasions that the body responsible for indigenous affairs must have adequate staff and financial resources, a well-defined legal framework and decision-making power. Additionally, indigenous peoples must be represented and participate in those institutions.

The Committee notes that the measures taken to strengthen indigenous and tribal peoples' representative institutions contribute to fulfilling the State's obligation to develop a *systematic and coordinated action* to implement the Convention. The aim of the systematic and coordinated action is to guarantee consistency among the different governmental institutions responsible for implementing the programmes and policies relating to indigenous peoples and is essential for the elimination of the inequalities that continue to affect some of these indigenous peoples. Often, the Committee has requested governments to provide information on the measures to give effect to that coordination and the manner in which the participation of indigenous peoples is guaranteed in the planning, implementation and evaluation of those measures.

The Committee underscores that the Convention enshrines the right of indigenous peoples to be consulted as a tool for ensuring the full participation of indigenous peoples in decisions that affect them. To that end, the Convention provides for the obligation of the State to consult with the indigenous peoples whenever consideration is being given to legislative or administrative measures which may affect them directly; and particularly before undertaking or permitting any programmes for the exploration or exploitation of existing resources pertaining to their lands. The Committee notes that in several countries, considerable efforts have been made to establish appropriate mechanisms for consultation with indigenous peoples, with the active participation with those peoples. Specific laws have been adopted which define the scope of the consultation and govern its procedure. In other countries, legislative drafts are being examined, aimed at

regulating the consultation process with indigenous peoples. The Committee recalls the importance of carrying out prior consultation with the indigenous peoples before adopting such legislation or establishing such consultation mechanism. In this respect, the Committee notes that the Convention and the comments of the Committee have comprised a reference framework for these initiatives. The Committee also had the opportunity to clarify the concept of “consultation” in its general observations published in 2009 and 2011. The Committee noted that consultations must be formal, full and exercised in good faith; and there must be a genuine dialogue between governments and indigenous and tribal peoples characterized by communication and understanding, mutual respect, good faith and the sincere wish to reach a common accord. The Committee also recalls that it is incumbent upon governments to establish appropriate mechanisms for consultation at the national level and that public authorities must undertake consultations, without interference, in a manner appropriate to the circumstances, through indigenous and tribal peoples’ representative institutions, and with the objective of reaching agreement or consent to the proposed measures.

The Committee wishes to highlight that consultation should be seen as an essential instrument for the promotion of effective and meaningful social dialogue, mutual understanding as well as legal certainty. Consultation also constitutes an important step towards guaranteeing the free, effective and permanent participation of indigenous and tribal peoples in decision-making processes that affect them. The Committee recalls that, from a joint reading of the provisions of the Convention, it follows that consultation goes beyond one particular measure. Consultation aims also at promoting the application of all the provisions of the Convention in a systematic and coordinated manner, in cooperation with the indigenous peoples, which entails a gradual process of establishing adequate bodies and mechanisms for this purpose.

With respect to the matter of *land*, the Committee recalls that the Convention recognizes the spiritual and cultural value that indigenous peoples attribute to the land. On several occasions, the Committee has noted that the use of the term “lands” in the Convention covers the total environment of the areas which the peoples concerned occupy or otherwise use (for example, for hunting, fishing or religious and cultural rituals). With respect to the rights of ownership and possession of indigenous peoples over the lands which they traditionally occupy, the Committee notes that measures have been adopted with a view to securing legal recognition of this right in national legislation. In certain countries this right is enshrined in the Constitution. In this respect, indigenous land titling programmes and policies have been developed and implemented, and various governments have provided detailed information on the titled regions and the communities benefiting from these programmes. It is also necessary to note the adoption and implementation of land restitution plans for internally displaced persons with the participation of the indigenous peoples concerned. Despite the adoption of such measures, the determination of lands traditionally occupied by indigenous peoples, and ultimately the recognition of their rights to ownership and possession, continue to be critical issues in some countries, even generating conflict. The Committee recalls that the recognition of traditional occupation as the source of ownership and possession rights is the cornerstone on which the land rights system established by the Convention is based, and encourages governments to take the necessary measures to establish appropriate procedures in this regard. Furthermore, the Committee wishes to emphasize the need to adopt specific measures to prevent the removal of indigenous peoples from their land. In this regard, the Convention establishes that the removal and relocation of indigenous peoples from their lands constitutes an exceptional measure and shall only take place with their free and informed consent.

With regard to *conditions of employment*, the Committee has noted with concern the serious abuses against indigenous workers, especially in rural areas and the agricultural sector. In this respect, the Committee requested governments to adopt measures to eradicate forced labour and discrimination against men and women workers belonging to indigenous peoples, highlighting the need to ensure respect of their fundamental rights at work. To this end, it is fundamental to strengthen labour inspection in regions inhabited by indigenous peoples. The Committee also highlighted the importance of adopting measures to promote the participation of women in the labour market. With respect to vocational training, the Committee invited governments to develop vocational training programmes taking into account indigenous peoples’ economic, environmental, social and cultural conditions.

The Committee recalls that under the Convention the right of indigenous peoples is recognized to participate in the formulation and implementation of *education* programmes. The Committee has noted that, in order to promote the use of indigenous peoples’ traditional languages in schools, several governments have formulated and implemented bilingual education with the participation of members of those peoples. At the same time, indigenous teacher training programmes on the education curriculum have been carried out, taking cultural perspectives into account in their implementation. The Committee also noted special measures adopted to revive languages at risk of extinction.

The Committee welcomes the measures taken by governments to promote intercultural *health* services to which the members of indigenous communities contribute with their knowledge of traditional medicine. The Committee also encourages governments to intensify efforts to extend social security coverage to the members of indigenous peoples. In this regard, the Committee particularly emphasizes the importance of ensuring that account is taken of the characteristics, needs and specific views of indigenous and tribal peoples in the formulation and implementation of national social protection systems.

The Committee highlights the fact that, despite the progress made in the implementation of policies and programmes for recognizing and implementing the rights of indigenous peoples provided for in the Convention, the *human rights* situation of indigenous peoples in a number of countries remains a source of concern. The Committee has urged governments on several occasions to take measures to prevent acts of violence suffered by indigenous peoples and their

representatives, including murder and intimidation, in the context of their action to defend their rights. The Committee is also concerned at the complaints submitted by the social partners relating to the criminalization of social protest. The Committee recalls the obligation of States which have ratified the Convention to ensure that indigenous peoples fully enjoy all their human rights. In this regard, the Committee underlines the importance of taking appropriate measures to ensure that all acts of violence against indigenous persons or peoples are investigated and that the personal integrity and safety of members of indigenous peoples are guaranteed. The Committee recalls the importance of ensuring that indigenous peoples are aware of their rights and have access to justice in order to assert their rights. The Convention specifically provides that measures shall be taken to ensure that indigenous or tribal peoples can understand and be understood in legal proceedings.

The Committee notes that, as part of the implementation of the Strategy for indigenous peoples' rights for inclusive and sustainable development, adopted by the Governing Body in 2015, the Office will need to continue with awareness-raising and training activities relating to the Convention and devise and disseminate tools encompassing experiences and good practices to provide guidance for constituents when adopting policies and programmes relating to indigenous peoples. The Committee welcomes the adoption of this Strategy which demonstrates the importance of the Convention for the fulfilment of the ILO's mandate, and hopes that in this context the Office can provide appropriate technical assistance to countries which request it. The Committee notes that the Strategy provides for reinforcing collaboration within the United Nations system with respect to promoting the rights of indigenous peoples. In this regard, the Committee notes that the Convention and the United Nations Declaration on the Rights of Indigenous Peoples, adopted in 2007, constitute two legal instruments of different nature and scopes which complement and reinforce each other. The Committee considers that the effective implementation of the Convention contributes towards achieving the objective of the Declaration as well as towards achieving the United Nations Sustainable Development Goals.

Central African Republic

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2010)

Articles 2 and 3 of the Convention. Protection of human rights and fundamental freedoms of indigenous peoples.

In its previous comments, the Committee expressed deep concern at the continuing insecurity in the country and the acts of violence that have resulted in victims among the country's indigenous communities and which have led to the flight of many farmers, particularly among the Mbororo, who have gone into exile in neighbouring countries. The Committee requested the national transitional authorities to make greater efforts to ensure full respect for the human rights of indigenous peoples, especially those of children and women from the Aka and Mbororo communities.

The Committee notes the Government's indication in its report that in the wake of the crisis in the country in 2013 it observed mass displacements of indigenous peoples, particularly the Mbororo, against their will, for security-related reasons. The Government states that during the transition period the Aka and Mbororo peoples were identified and their representatives were appointed as national councillors to discuss, protect and defend their rights. The Government also refers to the guarantees enshrined in the new Constitution of 2016, particularly article 6, which provides that the State shall ensure the robust protection of the rights of minorities, indigenous peoples and persons with disabilities. The Government indicates that the National Recovery and Peacebuilding Plan for the Central African Republic, adopted in October 2016, constitutes an urgent and immediate response to the needs of all population groups without any distinction.

The Committee notes the different documents of United Nations (UN) bodies which examine the situation in the Central African Republic, in particular: the report of the Secretary-General on the situation in the Central African Republic; the report of the Independent Expert on the situation of human rights in the Central African Republic; and the report of the Panel of Experts on the Central African Republic (S/2018/922 of 15 October 2018; A/HRC/39/70 of 13 August 2018 and the statement of 27 September 2018; and S/2018/729 of 23 July 2018). The Committee notes that the Independent Expert indicates in her statement of September 2018 that the human rights situation is characterized by the constant attacks by armed groups on civilians, the continuing weakness of state authority, a culture of impunity, discrimination based on ethnic origin and religion, and the social fragmentation and marginalization of certain population groups. In general, the Committee observes that the information in the abovementioned documents reveals that although some progress has been observed, particularly in the context of the African Initiative for Peace and local peace agreements, the humanitarian and human rights situation remains a source of concern with a proliferation of conflict zones, constant abuses and human rights violations resulting from the persistent attacks by various armed groups, inter-community violence, and the displacement of large numbers of people. Moreover, the Committee notes that the UN Committee on Economic, Social and Cultural Rights (CESCR), in its concluding observations of 4 May 2018, expressed its concern at the persistent marginalization, poverty and extreme vulnerability of indigenous populations (Mbororo and Aka), who continue to meet with considerable obstacles to the enjoyment of their rights under the Covenant, a situation which has worsened as a result of the situation of conflict in the Central African Republic (E/C.12/CAF/CO/1, paragraph 21).

The Committee notes all the above information with **deep concern**. ***While recognizing the complexity of the situation in the country, the Committee urges the Government to take all the necessary steps to put an end to the violence and human rights violations to which the civilian population has been exposed, especially those suffered by***

indigenous peoples who have been compelled to leave their territories. The Committee trusts that the implementation of the National Recovery and Peacebuilding Plan for the Central African Republic will enable the restoration of order, security and stability in the country so as to guarantee that the Aka and Mbororo peoples enjoy their rights under the Convention, to protect their integrity and to enable the return of persons displaced from their communities. The Committee requests the Government to indicate the measures taken in this regard and the manner in which indigenous peoples and their representatives have participated in the formulation and implementation of the measures that concern them.

The Committee is raising other matters in a request addressed directly to the Government.

Chile

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2008)

The Committee notes the observations of the Single Central Organization of Workers of Chile (CUT-Chile), received on 13 September 2018. ***The Committee requests the Government to send its comments in this regard.***

Article 6 of the Convention. Prior consultation. Indigenous constituent consultation process. The Committee notes the information provided by the Government in its report on the prior consultation processes conducted with indigenous peoples from 2009 to 2017, with regard to legislative measures and development projects, and that 85 out of 127 consultation processes have been finalized. The Government also includes a list of 45 official decisions from state administrative bodies establishing that the processes of consultation with indigenous peoples are not applicable.

The Committee notes the “Final report on systematization of the indigenous constituent consultation process” published in 2017 by the Ministry of Social Development. The report describes the process of consultation with indigenous peoples throughout the country with a view to enshrining the constitutional recognition of such peoples and their rights, under the supervision of an advisory and monitoring committee comprising organizations in the United Nations system and indigenous national councillors of the National Corporation for Indigenous Development (CONADI). The consultations took place between August 2016 and January 2017 with the Mapuche, Rapa Nui, Aymara, Quechua, Atacameño (Likan Antai), Diaguita, Colla, Kawashkar and Yagán peoples through convened meetings, self-convened meetings and individual participation, with the universities responsible for implementation. A total of 17,016 persons were consulted. The Committee notes the “Record of the outcomes of the national dialogue on the process of consultation concerning the constitutional recognition of the rights of indigenous peoples” signed on 21 October 2017 by representatives of the indigenous peoples, the Ministry of Development on behalf of the Government, and the UN Resident Coordinator in Chile in the capacity of guarantor and facilitator. The above-mentioned record contains the measures on which full agreement exists, including: (i) recognition of the pre-existence of indigenous peoples inhabiting the territory; (ii) recognition of the right of indigenous peoples to preserve, strengthen and develop their history, identity, culture, languages, institutions and traditions; (iii) the duty of the State to preserve the cultural diversity of the country; (iv) recognition and protection of the cultural and linguistic rights of indigenous peoples, their cultural, tangible and intangible heritage; and (v) reaffirmation of the principle of equality and non-discrimination on the basis of indigenous origin. The Committee notes that the “Bill amending the Fundamental Charter for enshrining the recognition of indigenous peoples, their culture and traditions, and ensuring their political participation and representation” (*Official Gazette* No. 11939-07) – which is based on the agreements achieved through the indigenous constituent process – was submitted to the Chamber of Deputies of Chile on 19 July 2018.

The Committee notes with **interest** the consultation process held with indigenous peoples in the country and the submission to the Chamber of Deputies of the “Bill amending the Fundamental Charter for enshrining the recognition of indigenous peoples, their culture and traditions, and ensuring their political participation and representation”. The Committee welcomes the efforts of the Government in this regard, which contribute towards strengthening the trust of the indigenous peoples. ***The Committee requests the Government to provide information on progress made regarding the process of constitutional recognition of indigenous peoples and their rights, further to the agreements enshrined in the “Record of the outcomes of the national dialogue on the process of consultation concerning the constitutional recognition of the rights of indigenous peoples” signed on 21 October 2017. The Committee also requests the Government to supply information on the manner in which the concerns expressed by indigenous peoples have been addressed in cases where it was decided that prior consultation processes were not applicable.***

Articles 6 and 7(3). Consultations in the context of the Environmental Impact Assessment System. In its previous comments, the Committee noted the General Environment Act (No. 19.300 of 1994), which established the Environmental Impact Assessment System (SEIA), and also Decree No. 40 of 2013 issuing the SEIA Regulations. The Committee recalls that Act No. 19.300 establishes a procedure of informed participation for communities in the appraisal process for environmental impact studies; and that Decree No. 40 provided that projects going through the SEIA that directly affect indigenous groups must be subjected to a process of good-faith consultation. The Committee notes section 85 of Decree No. 40, which provides that the consultation process must be formulated and implemented by the Environmental Evaluation Service, taking account of appropriate mechanisms reflecting the particular socio-cultural characteristics of each people and their representative institutions so that communities have the possibility of influencing the environmental evaluation process.

The Committee recalls that, further to the recommendation of the tripartite committee appointed to examine the representation made by the First Inter-Enterprise Trade Union of Mapucho Bakers of Santiago, adopted by the Governing Body (GB.326/INS/15/5), it asked the Government to provide information showing that, in projects going through the SEIA which are likely to affect indigenous peoples directly, there had been compliance with *Articles 6 and 7* and, where applicable, with *Articles 15 and 16* of the Convention. In reply to this request, the Government includes detailed information in its report on projects going through the SEIA which have been the subject of consultations with indigenous communities on the basis of stages agreed upon between them and the Environmental Evaluation Service. The first project (*Embalse Chironta*), located in the Arica and Parinacota region, was given a favourable assessment in September 2014 after consultations with the Aymaras de Challapo, Chapisca and Molinos Inti Marka indigenous communities and also with the Molinos and Chapisca Indigenous Associations. The Government indicates that these communities were likely to be affected directly by the project owing to the transit of vehicles on an unpaved road, which would generate high levels of noise and emissions. As a result of the consultations, 24 agreements were reached on the use of mitigation measures, including an agreement with the Municipal Labour Information Office in the municipality of Arica regarding training in skills that might be needed during the work concerned. The second project (“New 2 x 220 kV line Encuentro–Lagunas”), located in the Antofagasta and Tarapacá regions, was given a favourable assessment in March 2016 after being the subject of consultations with the Aymara de Quillagua indigenous community. The Government indicates that this community was likely to be affected directly since the project was to go ahead on archaeological sites where the community held cultural events. As a result of the consultations, 13 agreements were reached relating to mitigation measures to protect the archaeological component, as well as compensation measures, including the recovery of trails, the inclusion of local workers, and the construction and improvement of the community infrastructure and the Quillagua Tourist Information Centre.

The Committee requests the Government to continue providing information on the measures taken to give effect to the agreements reached with the communities consulted regarding the Embalse Chironta and “New 2 x 220 kV line Encuentro–Lagunas” projects, and to give effect to other agreements with indigenous communities which have been consulted through the Environmental Evaluation Service regarding development projects which affect them directly.

Articles 7(3), 15 and 16. Reform of the legislation on environmental impact assessment. In its previous comments, the Committee noted the setting up of an advisory board to evaluate and propose reforms to the SEIA and expressed the hope that the Government, on the occasion of the reform of the SEIA, would ensure the effectiveness of the mechanisms for the consultation and participation of indigenous peoples, as provided for by *Articles 6, 7, 15 and 16* of the Convention. The Government indicates that the Chamber of Deputies has started its examination of a Bill to modernize the SEIA presented by the President of the Republic through Communiqué No. 062-366 of 27 July 2018. The objectives of the Bill include the incorporation of prior public participation in relation to projects going through the SEIA system with the aim of creating an early dialogue process between the community concerned and the project sponsor, on the understanding that the appropriate time for launching the dialogue is before the assessment of the project. Criteria for the early public participation stage include: the provision of accurate, timely and complete information; the creation of forums for interaction so that communities can influence aspects of the project; and good faith and respect for human rights. This stage would conclude with the establishment of terms of reference as a basis for the preparation and presentation of the respective environmental impact assessment. The Committee notes the Government’s indication in this respect that no consultations have been held with indigenous peoples on this matter, regardless of the fact that once these possible reforms take the shape of a legislative bill, they must be the subject of consultations since they entail legislative amendments relating to the consultation of indigenous peoples.

The Committee emphasizes that the Supreme Court issued a report on 5 September 2018 concerning the Bill modernizing the SEIA (No. 20-2018), in which it states that the early public participation process constitutes an opportunity for those directly concerned or affected by the project or activity to inform themselves in a full and timely manner, especially regarding the economic and social benefits and the possible environmental externalities. The Supreme Court indicates the need to clarify whether the early public participation process includes the prior consultation of indigenous peoples when the project or activity directly affects one or more indigenous groups. According to the Court, if this is the case, the SEIA should establish a good-faith consultation process. In this respect, the Court, invoking *Article 7(3)* of the Convention, emphasizes that the early participation of indigenous communities through prior consultation would enable them to discover and understand the cultural and social impact that investment initiatives can have on these communities. The Committee observes that the Court refers to the final report of the Presidential Advisory Board for the reform of the SEIA, which indicates that there is a need to analyse the indigenous consultation processes which occur in the context of the SEIA, since these are facing questions and criticisms regarding procedures, expected results and associated time frames. ***Taking account of the objective and scope of the proposed amendments, the Committee trusts that the Government will take the necessary steps to ensure that consultations are held with indigenous peoples during the process to reform Act No. 19.300 establishing the SEIA, and also regarding possible amendments to the SEIA Regulations, in so far as they directly affect their rights. The Committee requests the Government to ensure that any legislative proposal relating to environmental impact assessments: (i) complies with Articles 6 and 15 of the Convention with regard to consultations with indigenous peoples on projects for the exploration or exploitation of existing resources on lands traditionally occupied by the aforementioned peoples; (ii) ensures the cooperation of the peoples concerned in the assessment of the social, spiritual, cultural and environmental impact that the development***

activities can have on these peoples, in accordance with Article 7 of the Convention; and (iii) addresses situations envisaged in Article 16(2)–(5) of the Convention regarding projects that involve the removal of the peoples concerned from the lands they traditionally occupy. In this regard, the Committee recalls that the Convention establishes that the removal and relocation of indigenous peoples from their lands constitutes an exceptional measure, and shall only take place with their free and informed consent.

The Committee is raising other matters in a request addressed directly to the Government.

El Salvador

Indigenous and Tribal Populations Convention, 1957 (No. 107) (ratification: 1958)

Prospects of ratification for the most up-to-date Convention. In its previous comments, the Committee welcomed the legislative and institutional progress in areas relating to the protection of indigenous people's rights; particularly the recognition of indigenous peoples in the Constitution, the Multi sectoral Round-table for Indigenous Peoples, and activities developed by the Indigenous Peoples Department under the Ministry of Culture. Noting that the Ministry of Labour and Social Welfare had prepared an analytical document which had come out in favour of the ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Committee requested the Government to provide information on the consultations held and the progress achieved in view of the ratification of that Convention. In its report, the Government indicates that the ratification process was still under consideration by the Ministry of Foreign Affairs, which was holding consultations with all state institutions in order to, at second instance, seek ratification before the Legislative Assembly. In this context, the Government has requested ILO technical assistance to gain knowledge of the full content of that Convention and experiences of its application in other countries. The Committee takes due note of this information and recalls that, at its 328th Session (October–November 2016), the Governing Body requested the Office to commence follow-up with the member States currently bound by Convention No. 107: (i) encouraging them to ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as the most up-to-date instrument in this subject area, which would result in the automatic denunciation of Convention No. 107; and (ii) collecting information from those member States with the aim of better understanding the reasons for their non-ratification of Convention No. 169 (see GB.328/LILS/2/1(Rev.)). ***The Committee therefore encourages the Government to consider the decision adopted by the Governing Body at its 328th Session and to examine the possibility of ratifying Convention No. 169. In this respect, the Committee hopes that the Office will provide without delay the assistance requested by the Government.***

Articles 3 and 4 of the Convention. Protection of institutions, property, and cultural values. The Committee notes the Government's indication that on 11 August 2011 the Culture Act (Legislative Decree No. 509) was adopted, containing a section exclusively on the rights of indigenous peoples. The Committee notes with *interest* that section 11 of this Act guarantees indigenous peoples and ethnolinguistic groups the right to preserve, enrich and publicize their culture, identity and cultural heritage. In addition, section 27 recognizes that indigenous peoples have the individual or collective right to fully exercise their human rights, and enshrines, in section 28, the obligation of the State to adopt public policies aimed at the recognition and visibility of indigenous peoples. The Government also indicates that the Indigenous Peoples Department of the Ministry of Culture continues to offer assistance to municipalities for the formulation of municipal ordinances. Between April 2015 and March 2017, three ordinances were adopted recognizing the rights of the indigenous communities of Panchimalco, Cuisnahuat and Conchagua municipalities, which provide that the municipalities, in coordination with the indigenous communities under their jurisdiction, shall take steps to restore, systematize and promote the historical memory of those communities. In addition, the Government provides information on the actions carried out by the Ministry of Culture to protect indigenous peoples' cultural heritage, such as certificates for indigenous leaders, support for cultural and artistic initiatives, including reviving the original language of the Náhuat people. ***The Committee requests the Government to provide information on the actions carried out, within the framework of the Culture Act, to protect the institutions, and cultural and religious values, of the indigenous peoples. Further, the Committee requests the Government to provide information on the outcome of the processes conducted in various municipalities, as well as by other governmental entities, to restore, systematize and promote the historical memory of the indigenous communities and their cultural identity.***

The Committee is raising other matters in a request addressed directly to the Government.

Guatemala

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 1996)

The Committee notes the joint observations of the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF) and the International Organisation of Employers (IOE), received in 2017 and on 1 September 2018. The Committee also notes the observations of the Guatemalan Union, Indigenous and Peasant Movement (MSICG), received in 2016 and on 13 February 2018, and the joint observations of the Autonomous Popular Trade Union Movement and the Global Unions of Guatemala, received on 1 September 2018. The Committee notes that the Government's report contains detailed information, and welcomes its efforts in this regard.

Articles 2 and 33 of the Convention. Coordinated and systematic action. In its previous comments, the Committee encouraged the Government to pursue its efforts, in cooperation with indigenous peoples, to establish a mechanism for coordinated and systematic action on policies and programmes, as required by the Convention. The Government refers in its report to the creation of the Office for Indigenous Peoples and Interculturality in 2016, as an advisory and deliberative body subordinate to the Office of the President of the Republic, the functions of which include: ensuring that each Ministry has an advisory body for indigenous peoples; evaluating the action taken by the State with regard to indigenous peoples and interculturality; and managing and promoting studies and research on the impact of the policies. The Office for Indigenous Peoples and Interculturality is composed of nine ministries, five secretariats, government institutions responsible for indigenous affairs, and national representatives of indigenous peoples in the System of Development Councils. The Government emphasizes that one of the Office's priorities is to develop the Indigenous Peoples and Interculturality Policy (PII) 2018–30, thus following up on a process initiated in 2013. In this regard, an Interinstitutional Technical Commission was established and an operative road map was adopted.

The Government also refers to the National Development Plan: “*K'atun Our Guatemala 2032*”, emphasizing that the Plan includes an equality perspective to improve the quality of life of the whole population, including indigenous men and women. The Government indicates that, out of a total of 62 public policies, 34 address the rights of the Maya, Xinka and Garifuna peoples. Furthermore, the General Policy Guidelines 2019–23 focus specifically on indigenous peoples with regard to malnutrition, health, water and natural resources. The following departments with a high percentage of indigenous peoples benefited from public investment: Totonicapán, Sololá, Alta Verapaz, Quiché, Chimaltenango, Huehuetenango, Baja Verapaz, Quetzaltenango, Suchitepéquez and Sacatepéquez. The Government provides information on the activities carried out by various institutions that directly or indirectly address issues related to indigenous peoples, in particular the Guatemalan Indigenous Development Fund.

The Committee notes that, in their joint observations, the Guatemalan Autonomous Popular Trade Union Movement and the Global Unions of Guatemala regret that there is no institution responsible for public policies on indigenous peoples. The Committee observes that, in its annual report for 2017, the Office of the Human Rights Advocate of Guatemala indicates that the 32 bodies created specifically to address the needs of indigenous peoples are facing significant challenges, including the lack of a strong legal framework, and insufficient funds and staff, which prevent them from extending the coverage of the services that they provide.

The Committee expresses the hope that the Government will take the necessary measures to adopt rapidly the Indigenous Peoples and Interculturality Policy (PII), and requests it to indicate which indigenous populations have been consulted and have participated in the development of this Policy. The Committee also requests the Government to indicate the measures taken to ensure that the Office for Indigenous Peoples and Interculturality has sufficient staff and material resources to evaluate the action taken by the State with regard to indigenous peoples and interculturality. It also requests the Government to provide information on the results of the evaluations carried out by this body. Lastly, noting the existence of several institutions for the protection of the rights of indigenous peoples provided for in the Convention, the Committee requests the Government to ensure the effective coordination and harmonization of the activities carried out by these institutions, defining their legal framework appropriately. The Committee requests the Government to provide information in this regard.

Article 3. 1. Human rights. The Committee previously requested the Government to indicate the measures adopted to avoid force and coercion being used in violation of the human rights and fundamental freedoms of indigenous peoples. The Committee also requested updated information on the status of the judicial proceedings initiated with regard to the events in Totonicapán in 2012 and the rulings handed down in relation to the persons prosecuted in this case. The Committee notes that the Government transmits information from the Office of the Public Prosecutor, which describes the different stages of the judicial proceedings initiated against a colonel in the infantry and eight members of the public safety branch of the Guatemalan Army, who were accused of several offences, including murder, committed during the events in Totonicapán. The Government also provides information on the measures taken to facilitate access to justice for indigenous peoples, indicating in particular that, in 2017, a Secretariat for Indigenous Peoples was established in the Office of the Public Prosecutor and the judicial authorities, and that the Policy on the Access of Indigenous Peoples to the Office of the Public Prosecutor 2017–25 was adopted.

The Committee observes that the Guatemalan Autonomous Popular Trade Union Movement and the Global Unions of Guatemala express concern regarding the considerable increase in the repression of social, community and indigenous organizations calling for respect for their rights. The trade union organizations also allege that the Office of the Public Prosecutor has played a key role in the criminalization of indigenous peoples, particularly leaders who oppose infrastructure projects carried out in their territories. By way of illustration, the trade union organizations refer to specific cases of leaders of indigenous peoples being murdered, detained or subject to acts of violence, which demonstrates the repression and criminalization of their protests.

The Committee also notes the Report of the United Nations Special Rapporteur on the rights of indigenous peoples concerning her visit to Guatemala, dated 10 August 2018. The Committee observes that the Special Rapporteur expresses her deep concern regarding the “increasing frequency of criminal proceedings against indigenous persons who are defending their lands and resources”. The Report also indicates that “Guatemala is faced with an alarming intensification

of violence, which is shown in the increase in the number of murders of indigenous defenders who attempt to defend their rights over their traditional lands” (A/HRC/39/17/Add.3).

The Committee expresses its deep concern regarding the murders, acts of violence and repression of social protests by indigenous peoples. It urges the Government to take the necessary measures to investigate the murders and all the acts of violence reported, and to initiate the relevant judicial proceedings to identify, determine the responsibilities of and penalize the perpetrators. In this regard, the Committee requests the Government to provide copies of all the judicial decisions handed down. The Committee also urges the Government to take the necessary measures to promote a climate free of violence which guarantees the safety of the members, institutions, property, work, cultures and environment of indigenous peoples, and respect for their human rights and all the rights enshrined in the Convention. The Committee also requests the Government to provide information on the outcome of the proceedings relating to the events in Totonicapán.

2. *Action to combat discrimination.* The Committee notes the detailed information provided by the Government on the activities carried out to combat discrimination and for the promotion, development, revival and practice of the cultures of the indigenous populations in the country (Maya, Garifuna, Xinka and Mestizo). The Committee notes in particular the programmes implemented by the General Directorate of Cultural Development and the Strengthening of Cultures; the training activities on the prevention of legal, economic and institutional discrimination and racism, carried out by the Presidential Committee against Discrimination and Racism in Guatemala (CODISRA) and targeting public officials, judicial officials, and trainers in public institutions (diplomas, post-graduate programme, training course for trainers and training workshops); and the Institutional Gender Equality Policy, which aims to increase the active participation of Maya, Garifuna, Xinka and Mestizo women in election processes. The Government also provides information on the complaints lodged with the Office of the Public Prosecutor on crimes of discrimination, the cases brought before first level criminal courts, and the persons sentenced for this crime between 2015 and February 2018. The Committee observes that an average of 350 complaints have been lodged per year and that eight rulings have been handed down under section 202 of the Criminal Code, which prohibits discrimination.

The Committee observes that, in its 2017 report, the Office of the Human Rights Advocate of Guatemala indicates that the indigenous agenda pending in Congress has been unsuccessful, as “in Guatemala, there has been no change of paradigm regarding cultural diversity, no commitment to combating ‘discrimination’ and no willingness to consult indigenous populations”. The Office of the Human Rights Advocate considers that the cultural relevance of public policies requires a second approach with “inclusive structures in all public institutions, specific policies with budgetary allocations and transparency and participation criteria, as well as affirmative measures and measures to combat racism and discrimination in public and at the institutional level”. *The Committee requests the Government to intensify its efforts to prevent and combat discrimination against members of indigenous communities, with particular emphasis on indigenous women, and to provide information on the activities carried out by CODISRA in this regard, and by other competent public bodies.*

Articles 6 and 7. Appropriate consultation and participation procedures. In its previous comments, the Committee noted that the provisions establishing consultation procedures contained in the Municipal Code and the Act on Urban and Rural Development Councils did not give full effect to the Convention. The Committee hoped that constructive dialogue would continue in the country on the establishment of appropriate consultation and participation procedures, and requested the Government to provide information on the results achieved. The Government indicates that, in October 2016, a national dialogue for the establishment of basic standards for consultations with indigenous peoples was launched with the aim of: holding participatory meetings and workshops with ancestral authorities, leaders and representatives of organizations of indigenous peoples; defining a guiding tool to give effect to the Convention; and obtaining information for the development of the Operational Guide for Consultations with Indigenous Peoples. The Government indicates that the methodology used during the consultation process as part of the national dialogue included five stages: (i) a territorial approach involving the identification of indigenous leaders, authorities and organizations in the same linguistic region; (ii) the organization of bilateral workshops, dialogues and meetings with the aim of gathering inputs; (iii) the compilation of inputs and their incorporation into the Guide; (iv) the organization of three regional feedback workshops for the development of the Guide; and (v) the process to “socialization” and dissemination of the Guide at the national level. The Government indicates that the Guide is a guidance document for public institutions on how to conduct prior consultations with indigenous peoples. In this regard, the Government indicates that the Guide is in accordance with the ruling of the Constitutional Court of 26 May 2017 concerning the Oxec and Oxec II hydroelectric projects (joint rulings Nos 90-2017, 91-2017 and 92-2017), which establish, inter alia, the mandatory procedures and guidelines to be followed by state bodies for all consultations with indigenous peoples, and require the Congress of the Republic to complete, within a year, the legislative process for the adoption of legislation on the right to consultation. In this regard, the Government indicates that Congress is examining two legislative initiatives on the right to consultation of indigenous peoples, and that one of the initiatives has been transmitted to the ILO by the Ministry of Labour. Furthermore, with a view to explaining the implementation of the methodology set out in the Guide, the Government describes the different stages of the consultation process carried out by the Ministry of Energy and Mining with the Maya Q’eqchi community with regard to the Oxec and Oxec II hydroelectric power stations. The Government highlights the presence of the Office of the Human Rights Advocate as an observer and guarantor of the consultation process, and of the Guatemalan Academy of Maya Languages

to ensure the translation into Q'eqchi. The consultation process ended with proposals for the establishment of an agreement on peace-building, environmental issues and sustainable development.

The Committee notes that the CACIF recognizes the Government's efforts regarding the elaboration of the Operational Guide for Consultations with Indigenous Peoples, the content of which was the subject of consultations with employers and representatives of indigenous peoples. The CACIF indicates that, while the Guide is not a legal instrument, its application by the authorities should help to ensure future consultation processes. However, the CACIF expresses concern regarding the lack of adequate regulations to properly guarantee the right to consultation enshrined in the Convention, and the uncertainty arising out of the rulings issued by national courts of justice which have created contradictory case law on the scope and form to be taken by consultations with indigenous peoples. Referring to the ruling of the Constitutional Court on the Oxec case, the CACIF welcomes the fact that the Court attempted to apply a unifying criterion to determine the procedures to be followed by courts and other state bodies when holding consultations with indigenous peoples in Guatemala. The CACIF also indicates that, in this ruling, the Court determined that consultations were to be held with indigenous peoples affected by the Oxec projects within a period of 12 months, and that while the consultations were being held, the enterprise responsible for the project could continue to operate. The CACIF regrets that later rulings ordered the cancellation of licences and the suspension of operations by enterprises, thus directly affecting employers, and also workers in terms of the jobs lost.

The Committee notes the indications of the Guatemalan Autonomous Popular Trade Union Movement and the Global Unions of Guatemala that the legal initiatives to regulate the right to consultation have not been the subject of consultation with indigenous peoples, and that many of the traditional authorities rejected the Operational Guide for Consultations with Indigenous Peoples adopted in 2017. The trade union organizations consider that the limited recognition in practice of the right to consultation has only been achieved through the successive claims filed by indigenous peoples with the courts.

The Committee takes due note of the efforts made by the Government with regard to the consultation process for the adoption of the Operational Guide for Consultations with Indigenous Peoples. While noting the ruling of the Constitutional Court regarding the Oxec projects and the submission to Congress of two bills on consultations with indigenous peoples, the Committee observes that the Government does not indicate whether or the manner in which indigenous peoples have been consulted on the two bills. The Committee recalls that, in accordance with *Article 6* of the Convention, the Government is required to consult the peoples concerned through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly. The consultations must be undertaken in good faith, through genuine dialogue, and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures. Furthermore, indigenous peoples must be given sufficient time to organize their own internal decision-making processes and to participate effectively in the decisions adopted.

The Committee therefore expresses the firm hope that the necessary measures will be adopted to ensure that indigenous peoples are consulted, in accordance with the terms of Article 6, and are able to participate in an appropriate manner through their representative bodies in the formulation of the bill on consultation procedures with indigenous peoples, to enable them to express their opinions and have an influence on the end result of the process. The Committee requests the Government to take the necessary measures to ensure that all the legislation to be adopted for the implementation of prior consultation with indigenous peoples gives full effect to the Articles of the Convention on consultation (Articles 6, 15(2), 16, 17, 22, 27 and 28). Until the legislation is adopted, the Committee requests the Government to provide information on the consultation processes carried out with regard to the administrative and legislative measures which may affect indigenous peoples, and on any complaints lodged in this regard. The Committee reminds the Government that, if it considers it appropriate, it may avail itself of ILO technical assistance in this regard.

Article 14. Lands. In the comments that it has been making for several years, the Committee has requested the Government to take the necessary transitional measures to protect the rights of ownership and possession of indigenous peoples over the lands that they traditionally occupy, in accordance with *Article 14* of the Convention, pending further progress on the regularization of land tenure. In this regard, the Committee noted the Act on land registry information (Decree No. 41-2005) and observed that that Title VII "Regularization under the land registration process" will apply until the entry into force of the "Land Tenure Act", and that section 65, included in this provisional Title, provides for machinery for determining and registering communal lands. In its previous comment, the Committee requested the Government to provide information on the application in practice of the Act on land registry information and its Regulations of 2009. It also requested information on the impact of the measures adopted on rural development and agricultural policy on the effective recognition of the land rights of indigenous peoples.

The Government indicates that, during the period 2015–17, a total of 6,728 families benefited from court rulings on the allocation and regularization of state land in the framework of the Programme for the regularization and allocation of state land. The Government considers that this Programme is in accordance with the Agreement on socio-economic aspects and the agrarian situation of 1996, with regard to the regularization of title to the lands of rural and indigenous communities. In this regard, the Land Fund examines cases concerning the allocation and tenure of the lands delivered or in the process of being delivered by the State. The Committee observes that, according to this information, half of the rulings benefited Maya families, and that Xinka and Garifuna families did not benefit from the rulings. The Government

also provides information on the programmes implemented by the Land Fund, including the Programme on access to land through subsidized loans and the Special Programme on land leases, intended for rural and indigenous families who are landless or have insufficient land and are living in a situation of poverty.

The Government also indicates that: (i) the Secretariat for Agrarian Affairs (SAA) of the Office of the President has undertaken strategic efforts, through different mechanisms, to facilitate the negotiated and consensual settlement of agrarian disputes between stakeholders; (ii) the SAA does not have the authority to determine who is the right holder, but makes use of historical land registration studies; (iii) the recognition of land rights is the responsibility of the General Property Registry through the certificates that it issues for registered farms; it also recognizes the possession of land, in a peaceful manner and in good faith, as well as customary tenure by indigenous peoples; (iv) the SAA gives preference to the use of customary law to settle land disputes involving members of the same community or between communities; (v) with regard to high-impact cases, 35 disputes were identified, in which permanent dialogue forums were established; (vi) according to the information provided, in 2017, the local offices of the SAA dealt with a total of 1,425 cases and 485 disputes were settled; (vii) the departments with the highest number of disputes were: Huehuetenango, Petén, Alta Verapaz, Quiché and Izabal; and (viii) among the difficulties identified by the SAA, the Government refers to the difficulty of reaching agreement in a shorter period of time, finding more appropriate ways of addressing problems using alternative methods, and establishing direct communication with persons and groups.

The Committee notes that the Autonomous Popular Trade Union Movement and the Global Unions of Guatemala allege the existence of a trend of evictions by court order in violation of the individual and collective human rights of indigenous communities. In their view, the evictions have had a serious impact on the communities, which suffer a total lack of protection and have no access to basic services, and whose ancestral practices and other collective activities are at risk of disappearing.

The Committee notes that, in the report on her visit to Guatemala in August 2018, the United Nations Special Rapporteur on the rights of indigenous peoples indicates that the “disturbing failure to protect these rights arises out of a context of extreme inequality in the distribution of land and the insecurity of tenure, together with an inadequate registration system that enables third parties to be given title to indigenous ancestral lands. Moreover, there are no appropriate mechanisms to settle conflicts of ownership, which means that disputes tend to come before the courts” (A/HRC/39/17/Add.3). In his 2017 report, the United Nations High Commissioner for Human Rights on the activities of his office in Guatemala indicates that “there continued to be a lack of protection for the collective property of indigenous peoples, particularly affecting women in the case of land titling and access to credits” (A/HRC/37/3/Add.1).

Noting the Programme for the regularization and allocation of state land, the Committee observes that it is unclear from the information provided by the Government whether progress has been made in the process of regularizing the lands traditionally occupied by indigenous peoples in terms of identifying and registering communal lands. ***The Committee requests the Government to adopt, without delay, the necessary measures to give appropriate protection to the land rights of indigenous peoples in accordance with Article 14 of the Convention, and to provide information on the areas of lands titled, the number of persons concerned and the relevant geographical areas. The Committee reiterates its request for concrete information on the application in practice of Decree No. 41-2005 and its Regulations of 2009 on communal lands. The Committee also requests the Government to provide information on the status of the land registration procedure. Please continue to provide information on conflict resolution mechanisms, indicating the conflicts that have been resolved and the conflicts that are pending.***

The Committee is raising other matters in a request addressed directly to the Government.

Nicaragua

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2010)

The Committee notes the Act for the Partial Reform of the Political Constitution of Nicaragua, adopted in January 2014, which replaces the term “communities of the Atlantic Coast” with “communities of the Caribbean Coast” contained in article 180 of the Constitution, and which recognizes that such communities have the “inalienable right to live and develop under the political, administrative, social and cultural organizational structure that is in keeping with their historical and cultural traditions”. Consequently, in March 2016, Act No. 28 containing the Statute of Autonomy of the Atlantic Coast Regions of Nicaragua was amended, by replacing the terms “North Atlantic Autonomous Region” and “South Atlantic Autonomous Region” with “North Caribbean Coast Autonomous Region” and “South Caribbean Coast Autonomous Region” respectively. The Committee recalls that the Government has recognized the existence of indigenous peoples and peoples of African descent in these autonomous regions, and in the Pacific, Central and North regions of Nicaragua.

Article 3 of the Convention. Human rights. Violence against indigenous communities on the North Caribbean Coast. The Committee notes that the Inter-American Court of Human Rights (IACHR), through its ruling of 1 September 2016, issued provisional measures in favour of members of the Miskito people from the North Caribbean Coast region living in the communities of Klisnak, Wisconsin, Wiwinak, San Jerónimo and Francia Sirpi in order to bring an end to the climate of violence affecting this region, which stems from conflicts over land possession. These measures include the establishment of an authority or body to identify the sources of conflict and propose ways of building peace

with the participation of the communities affected, and of guarantees to protect persons who have left their communities due to violence and who wish to return. In the rulings adopted on 23 November 2016 and 30 June 2017, the Court extended these provisional measures to cover members of the Miskito people living in the Esperanza Río Coco and Esperanza Río Wawa regions, respectively. The Court based its rulings on the conclusions of the Inter-American Commission of Human Rights, which referred to the “existence of conflicts between members of such communities and third parties occupying the land, which has resulted in multiple acts of violence, including murders, kidnappings, injury, sexual violence, destruction of property and displacement of the members of some communities” during the legal process of verification (*saneamiento*) and remediation, and reclaiming ancestral land (court ruling of 1 September 2016, paragraph 7). The Committee notes that the Government informed the Court that it had implemented an action plan used by the North Military Unit of the Nicaraguan Army to address the situation faced by community members and occupiers in communities affected by violence, and that it has established a Dialogue and Understanding Commission to take action to promote dialogue and understanding between territorial and community leaders and other stakeholders for the purpose of preventing confrontation (court ruling of 23 November 2016, paragraphs 23 and 31). ***The Committee expresses its concern regarding the conflicts and acts of violence that have occurred in the North Caribbean Coast Autonomous Region as a result of land claims and verification and remediation (saneamiento) processes. The Committee requests the Government to provide information on: the measures adopted to prevent all acts of violence and ensuring the cultural life and integrity of the communities of the Miskito people in this region, and the exercise of their collective rights; and the measures adopted to investigate acts of violence, determine the responsibilities of and penalize the perpetrators. Lastly, the Committee also requests the Government to indicate the manner in which members of the Miskito communities affected by the climate of violence participate in the development, implementation and evaluation of the measures adopted, including security plans.***

Article 14. Demarcation and land title processes. In its previous comments, the Committee requested the Government to provide information on progress made in the demarcation and title processes with respect to the lands of indigenous peoples. The Committee noted the constitutional and legal guarantees regarding the communal ownership of the lands of indigenous peoples. The Committee recalls that the demarcation and title processes of the indigenous peoples of the autonomous regions of the Caribbean Coast are regulated by the Act governing communal ownership for the indigenous peoples and ethnic communities of the autonomous regions of the Atlantic Coast of Nicaragua and of the Bocay, Coco, Indio and Maíz rivers (Act No. 445 of 2002), which established the National Demarcation and Title Commission (CONADETI) to, inter alia, determine and resolve applications for demarcation and title. While observing that there is no specific legislation that regulates the communal property of the indigenous peoples of the Pacific, Central and North regions of the country, the Committee requested the Government to describe the steps taken to identify the lands traditionally occupied by indigenous peoples in these areas, and the forms of landholding.

The Government indicates in its report that it is prepared to continue moving forward with the land demarcation and title process. The Government indicates that, during the period 2007–16, 23 territories were demarcated, titled and registered in favour of indigenous communities, with 16 titles granted for territories in the North Caribbean Coast Autonomous Region, four titles granted for territories in the South Caribbean Coast region and three titles granted in the “special status zone”. The titles have benefitted 304 indigenous communities and cover an area of land equivalent to 28.95 per cent of the national territory. The Government indicates that the legal process of verification and remediation (*saneamiento*), which is the fifth and last stage of the process of legalizing indigenous territories in the autonomous regions of the Caribbean, is a highly complex national issue. The Committee notes the adoption of Presidential Decree No. 15-2013 establishing the Interinstitutional Commission for the Protection of Mother Earth in the Territories of Indigenous Peoples and Peoples of African Descent in the Caribbean and Alto Wangki-Bocay Regions, whose objectives include mediating and finding alternative solutions to, where possible, conflicts involving others occupying areas belonging to indigenous communities. With regard to the Pacific, Central and North regions of the country, the Government indicates that the authorities of indigenous peoples consider that their ownership titles have been registered and are fully and legally effective. However, the Government indicates that difficulties have arisen regarding the recognition of collective ownership titles and the illegal occupation of land by landowners.

The Committee notes that the Government has implemented, with the support of the World Bank, the Land Administration Project (PRODEP), which aims to facilitate the demarcation, titling and registration of the property rights of indigenous peoples in the departments of Nueva Segovia, Jinotega and Rivas. According to Report No. PIDC536 published by the World Bank, the number of beneficiaries of the Second Land Administration Project (PRODEP II) at 31 December 2017 had increased to 633,627 persons and 92,995 households. The Committee notes the Government’s indication regarding the lack of consensus among the communities with respect to the Project and the official cartographic maps drawn up by the Nicaraguan Institute for Territorial Studies.

The Committee welcomes the efforts made to ensure the effective protection of the right to ownership and possession of land of indigenous peoples, and requests the Government to continue providing information on the results of the processes of demarcating and titling the traditional territories of the peoples covered by the Convention, within the scope of the regime established for the autonomous regions of the Caribbean Coast (Act No. 445) and also for the communities in the Pacific, Central and North regions. The Committee also requests the Government to provide information on the participation of indigenous and tribal peoples in the implementation of PRODEP II, and on the

procedures established to resolve the disagreements between communities, and between communities and third parties, with regard to demarcation processes.

The Committee is raising other matters in a request addressed directly to the Government.

Bolivarian Republic of Venezuela

Indigenous and Tribal Peoples Convention, 1989 (No. 169) (ratification: 2002)

The Committee notes the detailed observations of the Independent Trade Union Alliance Confederation of Workers (CTASI), received on 29 August 2018, and the joint observations of the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 26 September 2018. ***The Committee requests the Government to provide information in relation to these observations.***

Articles 2, 6 and 33 of the Convention. Coordinated and systematic action. Consultations. In its previous comments, the Committee noted the institutional and legislative framework for the protection of the rights of indigenous peoples in relation to consultation and participation and requested the Government to provide information on the activities of the Ministry of the People's Power for Indigenous Peoples and other government bodies responsible for indigenous affairs to promote coordinated and systematic action for the implementation of the Convention. The Government indicates in its report that the Ministry of the People's Power for Indigenous Peoples is the leading body for Government indigenous policy and that it works jointly with the Guaicaipuro Mission, which has been operational since 2003 as a body for the coordination, promotion and implementation of policies, plans and projects for indigenous peoples, with the participation of communal councils and indigenous organizations. The Government adds that the participation of indigenous representatives in national socio-economic issues is promoted through inter-institutional commissions and training activities on subjects of concern to indigenous peoples and the provisions which protect them.

The Committee notes that the CTASI refers in its observations to the Declaration of the Waramasen Assembly issued in February 2017 jointly by the Pemón, Akawaio, Arawako and Kariña indigenous peoples, in which these peoples express their discontent concerning, among other subjects, the absence of their participation in the formulation, application and evaluation of plans and programmes for comprehensive national security, defence and development, in accordance with section 11 of the Basic Act on the Security of the Nation of 2002.

The Committee notes that the CTASI adds in its observations, with reference to the establishment of the National Constituent Assembly in August in 2017, that members of indigenous peoples are not in agreement with the methodology used by the Government for the selection of indigenous candidates for the Constituent Assembly because it interfered with the internal processes of the communities for the selection of their representatives. The Committee notes the adoption of the Decree by the Constituent Assembly of 8 August 2017 containing provisions to ensure the full institutional functioning of the National Constituent Assembly in accordance with the constituted public authorities. In accordance with the Decree, the bodies of the Public Authority are subordinate to the National Constituent Assembly and have to comply with and enforce the juridical acts adopted by the Assembly for the preservation of the peace, public tranquillity, national independence, the stability of the socio-economic and financial system and the effective guarantee of the rights of the whole of the Venezuelan people.

The Committee requests the Government to indicate the manner in which the free participation of indigenous peoples is ensured in the adoption and implementation of the policies and programmes that affect them in the competent administrative bodies, at both the national level and the level of the various states, with an indication of the role played by the Guaicaipuro Mission. In this regard, the Committee requests the Government to include information on the measures adopted to promote coordinated and systematic action between the central Government and the states, as well as between government institutions, to ensure the exercise of the rights of indigenous peoples recognized by the Convention. The Committee also requests the Government to provide detailed information on the mechanisms that have been established for the consultation of the indigenous peoples, through their representative institutions, in relation to measures adopted by the Constituent Assembly which directly affect them.

Article 3. Human rights. In its previous comments, the Committee requested the Government to indicate the measures adopted to ensure respect for the human rights of indigenous peoples and that, when violations are denounced, the necessary investigations are carried out. In particular, the Committee requested information on the outcome of the proceedings initiated in relation to the murder of the indigenous leader of the Yukpa people, Sabino Romero, and on the massacre of members of the Yanomami people in the municipality of Alto Orinoco. In this regard, the Government indicates that the 14th Supervisory Court of the Metropolitan Area of Caracas handed down sentences of imprisonment for five persons charged with the presumed crime of the murder of Sabino Romero. Following various proceedings, one of the five persons presumed guilty was sentenced to imprisonment for 30 years. The Government adds that, according to the investigations carried out by a technical commission of the Office of the Public Prosecutor, it was not possible to prove that there had been a massacre of Yanomami indigenous people.

The Committee notes that the CTASI refers in its observations to the murder of five members of the Pemón people in the state of Bolívar between 2016 and 2017 by supposed armed groups with links to illegal mining. The CTASI

observes that, in response to the harassment of miners and the lack of action by the armed forces, a security council was established under the indigenous jurisdiction entitled the *Guardia Territorial Pemón* to slow down the expansion of mining in the Ikaburú community. The CTASI adds that, according to the complaints made by the members of the community to the Prosecutor General of Republic, the Pemón Territorial Guard is assuming the functions of the police and military authorities. The Committee also notes that the UNETE, CTV, CGT and CODESA, in their observations, report violations of human rights and the disproportionate use of violence against members of indigenous communities in Guajira, as well as the murder of an indigenous leader in a confrontation with a mining union in the state of Bolívar on 24 August 2018.

The Committee notes that, in its comments of August 2018 to the report of the UN Independent Expert on the promotion of a democratic and equitable international order on his mission to Venezuela (A/HRC/39/47.Add.2), the Government refers to the establishment of the Presidential Commission for the Protection, Development and Comprehensive Promotion of Lawful Mining in the Guayana Region (COMPRODEPROIN), which has the objective of formulating and implementing a plan of action to address in a comprehensive manner the problems arising out of the illegal practice of mining in the Guayana region. The Government adds that the National Anti-Smuggling Commission has been established with the purpose of monitoring, controlling and analysing the efforts of all national and regional public entities responsible for producing policies to resolve the problem of the invasion and destruction of protected areas for the unlawful extraction of minerals, as well as the social and health problems of the indigenous and rural communities in the states of Bolívar, Delta Amacuro and Amazonas.

The Committee expresses deep concern at the information relating to the situation of insecurity affecting the various indigenous peoples in the country, and particularly the Pemón people, and it urges the Government to take the necessary measures to prevent and bring an end to the conflicts caused by mining expansion, and to safeguard persons, institutions, property, labour, culture and the environment of the Pemón indigenous people. The Committee also requests the Government to indicate the manner in which the members of the communities affected by the climate of violence participate in the formulation, implementation and evaluation of the measures adopted. The Committee also requests the Government to provide information on the investigations conducted in relation to the complaints lodged concerning the action of the Pemón Territorial Guard and on the manner on which respect is ensured for the human rights of the members of the Ikaburú Community. The Committee further requests the Government to provide information on the activities of the COMPRODEPROIN and the National Anti-Smuggling Commission to safeguard the rights of the members of the communities affected by illegal mining.

Articles 3 and 25. Shortage of food and medicine. The Committee notes that, in their official communication of 1 October 2018, the special rapporteurs and independent experts of the United Nations indicate that the situation with regard to access to health care in the country is subject to serious deterioration. In its observations, the CTASI indicates that persons belonging to indigenous peoples suffer from a shortage of food and medicine, which is giving rise to critical living conditions that are obliging them to migrate to other places within and outside the country, for example in the cases of the Wayúu communities in the state of Zulia and the Warao communities in the state of Delta Amacuro. In particular, the CTASI refers to the health crisis affecting several Warao indigenous communities in the state of Delta Amacuro due to the rise in the number of cases of measles, malaria, HIV and other infectious and contagious diseases among the members of the communities. These allegations are also reflected in the observations of the UNETE, CTV, CGT and CODESA, and in the report of the Inter-American Commission on Human Rights of 31 December 2017 (OEA/Ser.L/V/II Doc.209). ***The Committee expresses concern at the situation regarding the shortage of food and medicine which is affecting certain indigenous communities and urges the Government to examine the situation, take the necessary measures and provide information on their impact.***

Article 15. Natural resources. Arco Minero del Orinoco. Prior consultation. In its previous comments, the Committee requested the Government to provide information on the application of the provisions of the Water Act, the Act on the management on biological diversity, the Basic Act on the environment and the Forest Act in relation to prior consultation with indigenous communities, environmental and socio-cultural impact studies, the payment of compensation and the participation of communities in the benefits deriving from exploitation of natural resources in their lands. The Committee notes the Government confines itself to indicating that consultations were held with indigenous communities prior to the establishment of the *Franja Petrolera del Orinoco* (Orinoco oil band) through multiple meetings held in the communities. The Committee notes the CTASI's observations concerning the commencement of mining operations in the state of Bolívar in 2017 as part of the *Arco Minero del Orinoco* project. According to the CTASI, the operations are carried out by the Parguaza Eco-socialist Mixed Mining Company, without having first consulted the indigenous communities affected in Apanao, Bloque El Callao, Bloque Guasipati-El Callao, Sifontes Norte, El Foco, El Triunfo and Gran Corazón de Jesús. ***The Committee requests the Government to provide detailed information on the consultations held with the indigenous communities affected by the mining activities carried out as part of the Arco Minero del Orinoco project, and on the agreements reached between the Government and the communities, including information on the terms governing the distribution of benefits.***

The Committee is raising other matters in a request addressed directly to the Government.

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 107** (*Angola, Belgium, El Salvador, Ghana, Malawi, Pakistan, Syrian Arab Republic*); **Convention No. 169** (*Central African Republic, Chile, Dominica, Guatemala, Nicaragua, Spain, Bolivarian Republic of Venezuela*).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 107** (*Cuba, Dominican Republic*); **Convention No. 169** (*Netherlands*).

Specific categories of workers

Bulgaria

Home Work Convention, 1996 (No. 177) (ratification: 2009)

The Committee notes the observations of the Trade Union of Self-Employed and Informal Workers (UNITY), of 23 October 2014 and 31 August 2018, concerning the situation of industrial homeworkers who do not work under an employment contract and who are therefore not covered by the Labour Code. The Committee further notes the response of the Government, received on 1 November 2018. The Committee also notes the comments of the Confederation of Independent Trade Unions in Bulgaria (CITUB), received on 1 November 2018, together with the Government's report.

Article 3 of the Convention. Declaration and implementation of a national policy on home work. The Government indicates that a meeting was held on 27 July 2018 at the Ministry of Labour and Social Policy (MLSP) with representatives of UNITY to discuss the situation of homeworkers, the self-employed and informal economy workers. The Committee welcomes the Government's indication that a commitment was made to continue this dialogue and that the MLSP undertook to organize a meeting between representatives of the Executive Agency Labour Inspectorate (LI) and UNITY to explore possibilities for cooperation between them. In its 2018 observations, UNITY provides information regarding the implementation of the Convention. It also provides a copy of the National Agreement on the Regulation of Home Work in the Republic of Bulgaria, signed on 24 November 2010, relating to the regulation of home work within the meaning of ILO Convention No. 177. The UNITY further provides a copy of a research study concerning homeworkers' terms and conditions of work, undertaken by Women in Informal Employment Globalizing and Organizing (WIEGO). The UNITY refers to its 2014 observations, in which it expressed concerns that: despite amendments to the Labour Code, there is no national policy on home work in Bulgaria, as required under *Article 3* of the Convention; the Government has denied "consultation rights" to UNITY on the basis that it is an organization concerned with home work; the Government insists that homeworkers are independent contractors and fall outside the scope of both the Convention and the Labour Code; and piece rates paid to homeworkers fall well below the minimum wage. The UNITY maintains that the situation with respect to homeworkers has not changed. It observes that homeworkers are the most marginalized workers in the supply chain, whose terms and conditions of work are determined by their employers unilaterally, and without a written contract, despite working under the control of their employers. According to UNITY, most homeworkers in Bulgaria are in the footwear and garment industry and work only for one employer or factory. In its observations, CITUB refers to a National Conference it held on 25 September 2018 on the topic of the informal economy and undeclared work, with the participation of Government representatives as well as the President of UNITY and a number of homeworkers. The CITUB indicates that it was noted at the National Conference that the national legislation does not protect homeworkers, and that the participants concluded that it was necessary to create a national platform against undeclared labour which would highlight policies for resolving problems stemming from all forms of undeclared work, including home work. ***The Committee requests the Government to provide detailed information concerning the measures adopted or envisaged to improve the situation of homeworkers, and to identify the employers' and workers' organizations that have been consulted with regard to the development, implementation and review of such measures.***

Articles 1 and 4(2)(a), (d), (e), (g) and (h). Definition of homeworker. Equality of treatment. In its observations, UNITY alleges that homeworkers are not covered by the Labour Code. The Committee notes the Government's indication that homeworkers who work under an employment contract are entitled to the same rights as other workers under the Labour Code. The UNITY observes, however, that the Government does not require employers to enter into employment contracts with homeworkers and that therefore many homeworkers are working without the benefit of a written employment contract, despite being dependent on their employer and working under the employer's control. In this regard, the Committee recalls that *Article 1* of the Convention defines a homeworker as a worker who performs work in his or her home or in other premises of the worker's choice, other than the premises of the employer, for remuneration, and which results in a product or service as specified by the employer, unless the worker has the degree of autonomy and economic independence necessary to be considered an independent worker under national laws, regulations or court decisions. The Committee notes therefore that the Convention may apply to wage earners who would not qualify as employees under national law but who are nevertheless in a relationship of economic dependence with another (a natural or legal person). The Committee further notes that *Article 4(1)* of the Convention indicates that one of the aims of the Convention is to promote, as far as possible, equality of treatment between homeworkers and other wage earners, taking into account the special characteristics of home work and, where appropriate, conditions applicable to the same or a similar type of work carried out in an enterprise. In its observations, CITUB maintains that the status of homeworkers is regulated only by section 107(b) of the Bulgarian Labour Code, which establishes that an employment contract may provide for the performance of work in return for remuneration at the employee's home or other premises of the employee's choice outside the employer's work location. The CITUB points out, however, that the only difference under the Labour Code between an employee performing home work and an independent homeworker is the presence of an employment contract under section 107(b) of the Labour Code. If there is an employment contract, then the worker receives the rights guaranteed to workers under the Labour Code, such as rest time and leave entitlements. If, however, a worker performs work for another without an employment contract in place, the worker will be considered an independent

contractor, even if she or he is economically dependent on that other. With regard to the Committee's previous comments concerning the application of *Article 4(2)(g) and (h)* of the Convention, the Government indicates that the Labour Code provides for the conclusion of employment contracts for home work, adding that where there is an employment contract for home work, the worker is entitled to the same rights as other workers under the Labour Code, such as the right to maternity leave for pregnancy and childbirth, as well as childcare leave. With respect to application of the principle of equality of treatment, UNITY refers to *Article 4(2)(a)* of the Convention, which provides for homeworkers' right to establish or join organizations of their own choosing, and commends the Bulgarian Government for recognizing such organizations. With regard to remuneration and social security (*Article 4(2) (d) and (e)*), UNITY indicates that the Labour Code has been amended to comply with the Convention, but alleges that it is not enforced. The UNITY also maintains that homeworkers are paid well below the minimum wage. It indicates that the minimum wage in Bulgaria is currently set at 510 Bulgarian Lev (BGN) (approximately €260 per month), but points out that many homeworkers in the garment and footwear sector earn as little as €89.09 per month. Moreover, if homeworkers are sick or take a day's leave, they lose income. In addition, UNITY alleges that homeworkers' payments are often delayed. In addition, UNITY maintains that many homeworkers do not have access to social security and cannot meet the insurance threshold of BGN510 (*Article 4(2)(e)*). ***The Committee requests the Government to provide detailed information on specific steps taken or envisaged to ensure equality of treatment between homeworkers and other workers, including by consulting the social partners concerned with a view to identifying homeworkers in an employment relationship, within the meaning of Article 1 of the Convention, who should be benefiting from the protections afforded by the Labour Code. Further recalling that paragraph 13 of the Home Work Recommendation, 1996 (No. 184), provides that minimum rates of wage should be fixed for home work in accordance with national law and practice, the Committee asks the Government to reply in detail to the observations raised by UNITY in relation to the low level of wages earned by home workers. Finally, noting that the Government does not indicate in reply to its previous request whether the provisions of the Labour Code pertaining to minimum age apply to homeworkers, the Committee once again requests the Government to provide clarification on this point.***

Article 6, labour statistics. Article 9 and Part V of the report form. Enforcement measures. Application in practice. The Committee notes the Government's indication that, since 1996, no statistics have been kept regarding the number of homeworkers. The CITUB considers that the failure to maintain statistics constitutes a breach of the Convention, highlighting the importance of having statistics on the number of home workers, in order to bring them out of the grey economy and combat informal employment. It also expresses concern regarding the low number of violations identified. The UNITY also calls for statistics to be kept in relation to home work. In response to the Committee's previous comments requesting information concerning the practical application of the Convention, the Government indicates that the LI supervises compliance with the labour laws in relation to factory and office home workers. Under section 402(1), (2) of the Labour Code, the LI may visit premises in homes or private properties where work is being performed, to inspect working conditions. The Government adds that from 2013 to mid-2018 there were 17 violations of the provisions regulating home work detected. ***The Committee requests the Government to provide detailed updated information on the steps taken or envisaged to ensure that statistics are compiled and analysed, disaggregated by sex and age, on homeworkers. The Committee further requests that the Government provide updated information concerning the practical application of the Convention, including copies of judicial decisions relevant to the principles of the Convention, extracts of inspection reports, indicating the number of inspections conducted, and the outcome of such inspections.***

Cuba

Plantations Convention, 1958 (No. 110) (ratification: 1958)

The Committee notes the observations of the Independent Trade Union Association of Cuba (ASIC), received on 30 August 2018, alleging the absence of consultations with workers' and employers' organizations by the Government for the implementation of the Convention. ***The Committee requests the Government to provide its comments in this respect.***

Part V of the Convention (annual holidays with pay). Articles 36 to 42. In its 2013 comments, the Committee hoped that once the new draft Labour Code had been finalized, it would take duly into account its comments relating to the need to amend section 98 of the Labour Code which provided, under certain conditions, for the replacement of holidays by remuneration, without benefiting from the leave. The Committee notes the Government's indication that section 98 of the previous Labour Code was repealed by Act No. 116 of 20 December 2013, adopting the new Labour Code (the 2013 Labour Code). The Committee notes that section 2(f) of the 2013 Labour Code establishes the right of workers to annual holidays with pay, and that section 74(c) provides that this entitlement shall be for at least seven days. Chapter IX, Part Six, governs entitlement to annual holidays with pay. In particular, section 101 of the 2013 Labour Code provides that workers shall be entitled to 30 calendar days of annual holidays with pay for every 11 months of effective service. Workers who do not complete 11 months of service are entitled to holidays with pay of a duration that is proportionate to the days actually worked. Workers with more than one job are entitled to enjoy effective leave on annual holidays with pay up to a total of 30 calendar days and to be paid the total amount to which they are entitled under each contract. Furthermore, sections 104 and 105 of the 2013 Labour Code establish the requirement for the employer to grant workers annual holidays with pay and to adopt the necessary measures to ensure observance of the programme of holidays

and ensure that the rest is effective. Finally, the Committee notes that, under the terms of section 107 of the 2013 Labour Code, “if upon expiry of the period for the enjoyment of the annual holidays with pay, exceptional circumstances arise which require the presence of the worker at work, the employer, having heard the views of the trade union, may postpone the holidays or grant the worker simultaneously payment for the accumulated holidays and the wage for the work performed, guaranteeing an effective period of leave of seven days in the year as a minimum.” The section adds that the worker and the employer shall set out in writing the agreement reached and that days worked in this respect are included in time and wages for the purposes of the new holiday period. ***The Committee recalls that Article 41 of the Convention provides that any agreement to relinquish the right to an annual paid holiday or to forgo such a holiday, shall be void. The Committee requests the Government to indicate the manner in which it is ensured that section 107 of the 2013 Labour Code gives full expression to this provision of the Convention, particularly in light of the portion of that section of the Code which authorizes the employer to require the presence of the worker, in exceptional circumstances, and which allows the employer to postpone or reduce the worker’s holiday and pay the worker the reduced amount of the accumulated leave.***

Part IV. Wages. Articles 24 to 35. The Committee recalls that Part IV of the Convention contemplates the establishment of procedures and mechanisms to fix and ensure minimum wages for plantation workers. The Committee requests the Government to indicate the manner in which effect is given to these provisions of the Convention.

Parts IX and X (right to organize and collective bargaining – freedom of association). Articles 54 to 70. The Government indicates in its report that the 2013 Labour Code recognizes and promotes trade unions in the various sectors. It also provides for measures of protection for the leaders of these organizations with a view to ensuring that they benefit from appropriate facilities for the performance of their functions. The Government also refers to the regulations respecting collective agreements and the mechanisms for the resolution of discrepancies which may arise in their preparation, amendment and revision. Finally, the Government indicates that the National Union of Sugar Workers has 2,010 first-level unions and 127,331 members, and that the National Union of Agricultural, Forestry and Tobacco Workers has 8,834 first-level unions, and 381,094 members. The Committee refers to its 2016 comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and requests the Government to provide information on the measures adopted or envisaged to ensure that workers in plantations do not suffer discrimination or prejudice in their employment for having peacefully exercised the right to strike, and also requests it to provide information on the exercise of this right in practice. The Committee also refers to its comments on the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and requests the Government to provide statistical data on the number of collective agreements concluded in plantations, with an indication of the sectors of activity and the numbers of workers covered.

Part XI (labour inspection). Articles 71 to 84. The Committee refers to its 2015 comments on the application of the Labour Inspection Convention, 1947 (No. 81), in which it noted with satisfaction the adoption of Decree No. 326 of 12 June 2014 issued under the Labour Code, repealing sections 11 and 12 of the 2007 Regulations on the National Labour Inspection System of 2007, which established the requirement in all inspections for employers to be provided with an inspection order containing certain information, including the purpose of the inspection. The Government indicates that in 2017 the National Labour Inspection Office carried out 76 inspections in the agricultural sector, in which it detected 389 violations, 140 of which were related to occupational safety and health. The Government adds that the principal violations detected consisted of the failure to guarantee safe and healthy conditions for workers and the violation of rules respecting the provision of personal protective equipment. The Committee also notes the information provided by the Government on the penalties imposed. Furthermore, the Committee notes that, in its observations, the ASIC denounces alleged cases of prisoners subjected to forced labour in plantations. The ASIC also denounces cases of child labour during school holidays and the employment of secondary school students in state farms during the harvest period. In this regard, it indicates that the students are not paid for their work, but receive academic credits and a favourable recommendation for entry into university. The Committee requests the Government to provide detailed information on the number of prisoners and secondary school students who work in state farms, disaggregated by age, type of work and the manner in which they are compensated, as well as their conditions of work, and the manner in which it is ensured that the students have the freedom to choose whether or not to work. The Committee also requests the Government to continue providing detailed information on the supervision and enforcement measures relating to the conditions of work of plantation workers, and particularly the inspections carried out in plantations, violations of the labour legislation reported and the penalties imposed.

Part IV of the report form. Application in practice. The Committee requests the Government to provide detailed information on the effect given to the Convention in practice, including: (i) recent studies on the socio-economic conditions of workers in plantations; (ii) statistical information, disaggregated by sex and age, on the number of plantations and workers to whom the Convention applies; (iii) copies of collective agreements applicable in the sector; and (iv) the number of workers’ and employers’ organizations established in the plantations sector, and any other information which enables the Committee to assess the situation of workers in plantations in relation to the provisions of the Convention.

[The Government is asked to send a detailed report in 2019.]

Poland

Nursing Personnel Convention, 1977 (No. 149) (ratification: 1980)

The Committee notes the observations of the all-Poland Alliance of Trade Unions (OPZZ) received on 31 August 2018, together with the Government's report, as well as the Government's reply to these observations, received on 22 October 2018.

Articles 2 and 5 of the Convention. National policy concerning nursing services and nursing personnel. Consultations with social partners. The Committee notes the detailed information provided by the Government on the measures taken to guarantee that nursing personnel are ensured adequate employment and working conditions, including in relation to career development and remuneration, as well as measures to promote increased interest in the nursing and midwifery professions. The Government reports that a team established by the Minister of Health in 2017 developed the "Strategy for the development of nursing and midwifery in Poland" (hereinafter "the Strategy"), a document setting out a series of actions, agreed in consultation with representatives of nurses and midwives, to be undertaken to improve the quality of nursing care for patients and working conditions for nurses. The Government indicates that the Minister of Health will take the Strategy into account in implementing the health-care policy. The OPZZ observes that the All-Poland Trade Union of Nurses and Midwives was the sole trade union to participate in the development of the Strategy. It adds that the Strategy does not make provision for financing of the actions to be taken, nor does it indicate the manner in which achievement of the objectives will be monitored, or clarify the weight to be accorded to the Strategy. The Committee notes that a salary agreement was concluded on 23 September 2015 between the National Professional Association of Nurses and Midwives, the National Council of Nurses and Midwives, the President of the National Health Fund and the Minister of Health. In its observations, the OPZZ expresses concern that a subsequent salary arrangement was concluded in July 2018, highlighting that both agreements were discussed with only one trade union, thereby discriminating against other trade unions, in violation of the Polish Constitution and the Trade Unions Act. In its reply to the OPZZ's observations, the Government indicates that the agreement concluded by the Minister of Health with representatives of nurses in 2015 formed the basis for the draft of the relevant resolution of the Minister of Health, which was the subject to public consultations with the social partners. In this respect, the Committee notes the issuance of the resolution of the Minister of Health of 8 September 2015 on the general terms and conditions of contracts for the provision of health-care services, amended by the resolution issued by the Minister of Health on 14 October 2015, ensuring additional funds for the services rendered by nurses and midwives. The Government reports that the new resolution provides for an annual increase of the average monthly remuneration of nurses and midwives in the amount of 400 Polish zloty gross per year (4x400). The Committee notes the Government's indication that the regulations apply only to nurses and midwives employed by entities having concluded contracts with the National Health Fund. The OPZZ alleges that the resolution of 8 September 2015 discriminates against other health-care sector workers, as it provides for annual increases only to the salaries of nurses and midwives, omitting other health sector professionals. It adds that the allocation of funds for salary increases for nurses and midwives is being implemented as agreed with trade unions representing nurses and midwives providing services on the premises of health service providers, thereby omitting many nurses and midwives that provide services in other settings. In its response, the Government indicates that the resolution of 8 September 2015 does not discriminate against other professional groups in the health-care sector or trade unions associated in organizations represented at the national level, because these organizations can bring matters of significant social or economic importance to the Social Dialogue Council, and express their opinions or initiate negotiations with respect to an agreement with a specific subjective and objective scope. The OPZZ also indicates that, since 2015, the funds allocated to increasing the salaries of nurses and midwives have been drawn from funds allocated by the National Health Fund for health-care services to patients. The Committee notes the information provided by the Government concerning the Act of 8 June 2017, on the manner of defining the lowest base salary of employees in the medical profession employed at medical facilities, including nurses and midwives. According to the Act, as of 1 July 2017, the lowest base salary of an employee practicing a medical profession, including nurses and midwives, was increased by at least 10 per cent of the difference between the lowest base salary and the base remuneration of the employee. The Government reports that an additional increase in the lowest base salary took place on 1 July 2018. ***The Committee requests the Government to provide updated information on the measures taken to ensure that nursing personnel are provided with employment and working conditions, including in relation to career prospects and remuneration, aimed at attracting individuals to the profession and retaining them in the nursing profession.***

Uruguay

Domestic Workers Convention, 2011 (No. 189) (ratification: 2012)

Article 17(2) and (3) of the Convention. Labour inspection and penalties. Access to household premises. The Committee notes with **interest** the detailed information sent by the Government on measures taken in relation to labour inspection in the domestic work sector. The Government indicates that the methodology used by the labour inspectorate in this sector is based on: specific complaints, routine inspections, operations covering broad sectors of workers at a particular time, and coordinated inspections with an integrated approach (that is, involving action by other bodies with competence in related areas, for example with regard to migrant workers, the work of young persons or human trafficking

for labour exploitation). The Government indicates that there is a protocol for complaints according to which, in the event that informal domestic work is suspected, the household concerned is automatically inspected, together with other households in the area. This meets the twofold objective of conducting inspections in a large number of households while preventing the complainant from being exposed. The Government also indicates that since 2013 the number of complaints received has increased and a special scheme is being devised to detect domestic work done by foreigners. The Committee also notes the information in the report sent by the Government entitled “Inspection of domestic work during the 2010–16 period”. The report highlights a qualitative increase in inspections in the sector through the adoption of measures such as the reinforcement of training for the labour inspectorate with regard to the legislation concerning the domestic work sector. According to the report, many cases of non-compliance identified during inspections relate to infringements regarding wages and situations of vulnerability at work for foreign workers mainly originating from Peru, the Dominican Republic, Paraguay, Bolivia and Brazil. Lastly, the Government indicates that it has received requests from other Latin American countries to share good inspection practices in the domestic work sector. ***The Committee requests the Government to continue providing detailed information on the specific measures taken or contemplated relating to labour inspection with due regard for the special characteristics of domestic work, and bearing in mind the presence of foreign workers. It also requests the Government to provide information on the number of inspections in the sector, the number and type of infringements detected, and the penalties imposed.***

The Committee is raising other matters in a request addressed directly to the Government.

Bolivarian Republic of Venezuela

Nursing Personnel Convention, 1977 (No. 149) (ratification: 1983)

The Committee notes the observations of the National Union of Workers of Venezuela (UNETE), the Confederation of Workers of Venezuela (CTV), the General Confederation of Labour (CGT) and the Confederation of Autonomous Trade Unions (CODESA), received on 26 September 2018. The Committee also notes the observations of the Independent Trade Union Alliance Confederation of Workers (CTASI), received on 29 August 2018. ***The Committee requests the Government to provide its comments in this respect.***

Articles 2(2)(b) and 5(2) of the Convention. Determination of conditions of employment by negotiation between the employers’ and workers’ organizations concerned. In response to the Committee’s previous comments, the Government indicates that the following are applicable to nursing personnel: the Basic Labour Act on men and women workers (LOTTT); the Third Collective Agreement of 2002 between the Ministry of Health and Social Development and its autonomous institutes and the Federation of Nurses of Venezuela; the Collective Labour Agreements agreed in the Labour Standards Meetings held from the 2013 and 2015 Labour Policy Meetings; and the 2018 Health Sector Agreement. The Committee notes that the Government has provided a copy of the Third Collective Agreement of 2002 between the Ministry of Health and Social Development and its autonomous institutes and the Federation of Nurses of Venezuela and the 2018 Health Sector Agreement, which regulate conditions such as hours of work, weekly rest and paid annual holidays, and the payment of special bonuses and compensation, respectively. However, the Committee notes that the workers’ organizations UNETE, CTV, CGT and CODESA assert that, following the approval of the Executive Resolution implementing the single wage scale for all public administration workers from September 2018, more than 90 per cent of the collective agreements concluded in the health sector have fallen into abeyance, as these include more advantageous wage scales. They also indicate that the enforcement of the single wage scale eliminates the payment of bonuses and other labour benefits set out in the collective agreements. The Committee also notes the CTASI’s indication that the number of nursing staff emigrating to other countries in search of better working conditions has increased. ***The Committee requests the Government to indicate the measures adopted or envisaged to provide nursing personnel with employment and working conditions, including career prospects and remuneration, which are likely to attract persons to the profession and retain them in it (Article 2(2)(b)). It also requests the Government to indicate the measures taken or envisaged with a view to holding negotiations with workers’ and employers’ organizations to determine the conditions of work and employment of nursing personnel (Article 5).***

Articles 2 and 7. Employment and occupational safety and health of nursing personnel. In its previous comments, the Committee requested the Government to provide its response to the observations of the CTV, in which the CTV indicated that the working conditions of nursing personnel have deteriorated along with the whole infrastructure of the public health system in the country, in particular in large urban hospitals, including in maternity units and children’s hospitals. The CTV also indicated that murders, harassment and dismissals on the grounds of protests had occurred among nursing personnel and in the emergency services, which are regularly victims of crime and violence. In this regard, the Committee notes the Government’s indication in its report that article 68 of the Constitution of the Bolivarian Republic of Venezuela and section 487 of the LOTTT recognize the right of men and women workers to demonstrate, in accordance with the law, which has been respected by the competent authorities. The Government adds that, despite the fact that discussions are ongoing regarding an agreement to improve the living conditions of workers in the health sector, a group of nursing professionals, including the Executive Board of the Nursing College of the Capital District, failed to comply with the agreements established in round tables in which legitimately representative trade unions and the competent authorities had participated. The Government adds that, through the Neighbourhood Mission (*Barrio Adentro*), progress

has been made regarding the establishment of a comprehensive and efficient Public National Health System. The Government reports that 24 hospitals were built and 200 operating theatres were renovated between 2000 and 2014. However, the Committee notes the CTASI's allegations in its observations regarding a lack of medical supplies in the country's health centres, precarious working conditions in hospitals (where there is allegedly a shortage of water and food), threats to nursing personnel and a lack of fair wages. Furthermore, the CTASI affirms that, as a result of the above-mentioned precarious conditions, on 25 June 2018, there was a work stoppage by nursing personnel in the public sector. Lastly, the Committee notes that, in its concluding observations of 7 July 2015, the Committee on Economic, Social and Cultural Rights (CESCR) noted with concern "the reports regarding the critical situation of the healthcare system ..., due to the severe shortage and irregular supply of medicines and surgical and medical equipment. It is further concerned at the poor state of repair of some hospitals and the reported lack of medical personnel" (E/C.12/VEN/CO/3, paragraph 27). *The Committee therefore requests the Government to adopt the necessary measures, in consultation with the social partners, with a view to developing and implementing a policy concerning nursing services and nursing personnel designed, within the framework of a general health programme and within the resources available for healthcare as a whole, to provide the quantity and quality of nursing care necessary for attaining the highest possible level of health for the population (Article 2). Furthermore, observing that the Government has not responded to the comments of the CTV regarding the alleged cases of murder, harassment and dismissals as a result of protests by nursing personnel and the emergency services, the Committee reiterates its request to the Government to send its comments in this respect (Article 7).*

Article 4. Legislation on the requirements for the practice of nursing. In its previous comments, the Committee requested the Government to indicate whether the implementing regulations of the Act concerning the provision of professional nursing care (*Official Gazette* No. 38263 of 1 September 2005) and the regulations relating to the minimum remuneration received by nursing personnel in the private sector had been adopted. In this regard, the Government indicates that the fixing of minimum wages for nursing personnel is currently being discussed by the Federation of Professional Nursing Colleges of the Bolivarian Republic of Venezuela and the body responsible for health with a view to updating and adapting wages to the current situation in the country. However, the Committee observes that the Government has not indicated in its report whether the implementing regulations of the Act concerning the provision of professional nursing care have been adopted. *The Committee requests the Government to provide information on the outcome of the negotiations held with a view to fixing the minimum wages of nursing personnel. Furthermore, the Committee once again requests the Government to indicate whether the implementing regulations of the Act concerning the provision of professional nursing care have been adopted and, if so, to provide a copy.*

Part V of the report form. Application in practice. *The Committee requests the Government to provide detailed and updated information on how the Convention is applied in practice, including statistical information on the numbers of nursing personnel, disaggregated by sex, area of activity, training level and function, the ratio of nursing personnel to population, the number of persons who enrol in nursing schools and leave the profession each year, copies of official reports or studies on nursing services and information on any practical difficulties experienced in the application of the Convention, such as the lack or migration of nursing personnel.*

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 110** (Mexico, Panama, Philippines, Uruguay); **Convention No. 149** (Belgium, Congo, France, Ghana, Guatemala, Guinea, Guyana, Jamaica, Kyrgyzstan, Latvia, Malawi, Malta, Tajikistan, United Republic of Tanzania, Uruguay); **Convention No. 172** (Cyprus, Dominican Republic, Guyana, Iraq, Lebanon, Mexico, Netherlands: Caribbean Part of the Netherlands, Netherlands: Curaçao, Netherlands: Sint Maarten, Uruguay); **Convention No. 177** (Albania, Argentina, Belgium, Bosnia and Herzegovina, Netherlands, Tajikistan, The former Yugoslav Republic of Macedonia); **Convention No. 189** (Belgium, Chile, Dominican Republic, Finland, Nicaragua, Panama, Portugal, South Africa, Uruguay).

II. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labor Conference (article 19 of the Constitution)

Afghanistan

Serious failure to submit. The Committee requests the Government to provide information on the submission to the National Assembly of the instruments adopted at the 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions of the Conference.

Albania

Serious failure to submit. The Committee notes that the Government has not replied to its previous comments. *The Committee refers to its previous observations and requests the Government to provide information on the submission to the Albanian Parliament of the remaining instruments adopted by the Conference at its 82nd Session (Protocol of 1995 to the Labour Inspection Convention, 1947), 90th Session (Recommendations Nos 193 and 194), as well as the instruments adopted at the 78th, 84th, 86th, 89th, 92nd, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions.*

Angola

Failure to submit. The Committee notes that the ratification of the Work in Fishing Convention, 2007 (No. 188), was registered on 11 October 2016. *The Committee once again requests the Government to provide the required information on the 14 instruments pending submission to the National Assembly adopted at the 91st, 92nd, 94th, 95th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions of the Conference (2003–17), as well as the Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180) (79th Session, 1992), the Protocol of 1995 to the Labour Inspection Convention, 1947 (82nd Session, 1995), and the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189) (86th Session, 1998).*

Antigua and Barbuda

Submission to Parliament. The Committee recalls the information provided by the Government in April 2014 indicating that the instruments adopted by the Conference from its 83rd to its 101st Sessions (1996–2012) were resubmitted by the Minister of Labour to the Cabinet of Antigua and Barbuda on 11 March 2014. *The Committee urges the Government to specify the dates on which the instruments adopted by the Conference from its 83rd to its 101st Sessions were submitted to the Parliament of Antigua and Barbuda.*

In addition, the Committee once again requests the Government to provide information on the submission to Parliament of the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, as well as the Transition

from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session. The Committee also requests the Government to provide information on the submission to Parliament of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session.

Azerbaijan

Serious failure to submit. While the Committee notes the information provided by the Government regarding the measures taken in relation to instruments adopted at the 95th, 99th, 101st, 103rd, 104th and 106th Sessions of the International Labour Conference, it notes that the Government has once again not provided the requested information on submission to the competent authority (National Assembly). The Committee expresses the firm hope, as did the Conference Committee in 2016, 2017 and 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to its competent authority. The Committee therefore once again urges the Government to provide information with regard to the submission to the National Assembly (Milli Mejlis) of the Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180) (79th Session), and the instruments adopted at the 83rd, 84th, 89th, 90th, 94th, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions of the Conference. *The Committee recalls that, since 2005, it has been requesting the Government to indicate the date of submission of the Human Resources Development Recommendation, 2004 (No. 195), to the National Assembly, and urges the Government to communicate this information without further delay. In addition, the Committee requests the Government to provide information on whether and on what date the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the International Labour Conference at its 106th Session has been submitted to the National Assembly (Milli Mejlis).*

Bahamas

Serious failure to submit. The Committee notes with *concern* that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the Parliament). The Committee therefore urges the Government to provide information on the submission to Parliament of the 24 instruments adopted by the Conference at 14 sessions held between 1997 and 2017 (85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).*

Bahrain

Serious failure to submit. The Committee notes that the Government has not replied to its previous comments. The Committee recalls the information provided by the Government in November 2016 indicating that the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), was submitted to the competent authority, in accordance with the Constitution of Bahrain. The Committee notes, however, that no information was provided on the date of submission to the National Assembly. In its previous observations, the Committee noted that article 47(a) of the Constitution of Bahrain requires the submission of Conventions to the Council of Ministers, which is the body responsible for the formulation of the State's public policy and for following up on its implementation. The Committee further recalls the Government's indication in September 2011 that, with the establishment of a National Assembly – composed of the Consultative Council (*Majlis Al-Shura*) and the Council of Representatives (*Majlis al-Nuwab*) – there was a need to establish a new mechanism for submission of the instruments adopted by the Conference to the National Assembly. The Committee notes that the ILO indicated its disposal to explore with the national authorities the manner in which a mechanism could be established for the effective submission of instruments adopted by the Conference to the National Assembly in order to ensure the fulfilment of the Government's obligations under the ILO Constitution. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017, and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). The Committee therefore urges the Government to provide full information on the submission to the National Assembly of the instruments adopted by the Conference at 14 sessions held between 2000 and 2017. The Committee once again reminds the Government of the availability of ILO technical assistance in this regard.*

Bangladesh

Submission to Parliament. The Committee notes with *interest* the Government's indication that 41 instruments adopted by the Conference at its 77th, 79th, 81st, 82nd, 83rd, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions, and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted at its 106th Session, were submitted to the competent authority (the Parliamentary Standing Committee to

the Ministry of Labour and Employment). The Committee further notes the Government's indication that the contents of the instruments were presented to the Parliamentary Standing Committee at its 8th, 13th, 14th, 15th and 17th meetings, and that the 17th meeting was held on 18 February 2018. *The Committee welcomes the progress made by the Government in complying with its constitutional obligation and requests the Government to provide information concerning the dates of the meetings during which the submissions were effected.*

Belize

Serious failure to submit. The Committee notes with **concern** that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). The Committee requests the Government to provide information on the submission to the National Assembly of 41 pending instruments adopted by the Conference at 21 sessions held between 1990 and 2017.*

Plurinational State of Bolivia

Failure to submit. The Committee notes that the Government has not replied to its previous comments. The Committee recalls the information provided by the Government indicating that the Conventions adopted by the Conference between 1990 and 2003 were submitted on 26 April 2005. Nevertheless, information has not been provided on the submission to the Plurinational Legislative Assembly of the 13 Recommendations and the three Protocols adopted by the Conference during that period (1990–2003). *The Committee once again requests the Government to provide information on the submission to the Plurinational Legislative Assembly of the remaining three Conventions adopted by the Conference since 2006 for which submission is still pending, as well as 22 Recommendations and four Protocols.*

Brunei Darussalam

Serious failure to submit. The Committee notes that the Government has not replied to its previous comments. *The Committee once again requests the Government to provide information on the submission to the competent national authorities, within the meaning of article 19(5) and (6) of the ILO Constitution, of the instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd and 104th Sessions (2007–15). It also requests the Government to provide information concerning the submission of Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session.* The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

Burkina Faso

Failure to submit. *The Committee once again requests the Government to supply the required information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).*

Burundi

Submission to the National Assembly. The Committee welcomes the information provided by the Government with regard to the submission to the National Assembly on 23 May 2018 of ten instruments adopted by the International Labour Conference from 2006 to 2017: the Work in Fishing Convention, 2007 (No. 188), and its Recommendation No. 199; the HIV and AIDS Recommendation, 2010 (No. 200); the Domestic Workers Convention, 2011 (No. 189), and its Recommendation No. 201; the Social Protection Floors Recommendation, 2012 (No. 202); the 2014 Protocol to the Forced Labour Convention, 1930; the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203); the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204); and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205). *The Committee welcomes the progress made by the Government in complying with its constitutional obligation and invites the Government to continue to regularly provide information on the submission to the National Assembly of the instruments adopted by the Conference.*

Central African Republic

Failure to submit. The Committee notes that the Government has not replied to its previous comments. *The Committee requests the Government to provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).*

Chad

Failure to submit. **The Committee once again requests the Government to supply the required information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).**

Chile

Serious failure to submit. The Committee notes that the Government has not replied to its previous comments. **The Committee therefore once again requests the Government to provide the required information indicating the date of submission to the National Congress of the 30 instruments adopted at 16 sessions of the Conference between 1996 and 2015 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th (the Employment Relationship Recommendation, 2006 (No. 198)), 96th, 99th, 101st, 103rd and 104th Sessions). The Committee also requests the Government to provide information on the submission of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), to the competent authorities, indicating the date of submission.**

Comoros

Serious failure to submit. The Committee notes with **concern** that the Government has not replied to its previous comments. The Committee recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017, and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to the Assembly of the Union of Comoros of the 44 instruments adopted by the Conference at the 22 sessions held between 1992 and 2017.**

Congo

Serious failure to submit. The Committee notes that the Government has not replied to its previous comments. The Committee recalls the statements made by the Government representative to the Conference Committee in 2011 and 2012 indicating that the Ministry of Labour and the General Secretariat of the Government had agreed to submit a certain number of Conventions to the National Assembly every three months, with a view to their ratification. **The Committee once again requests the Government to complete the submission procedure in relation to 65 Conventions, Recommendations and Protocols, adopted by the Conference during 31 sessions from 1970 to 2017, which have not yet been submitted to the National Assembly.**

Croatia

Serious failure to submit. The Committee notes the information provided by the Government representative before the Conference Committee in June 2017 indicating that the Government took its standards-related obligations very seriously. The Government representative thanked the Office for the technical assistance provided in 2016. **The Committee expresses the firm hope, as did the Conference Committee in June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to the Croatian Parliament of the 22 instruments adopted by the Conference at 13 sessions held between 1998 and 2017 (86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).**

Democratic Republic of the Congo

Failure to submit. **The Committee requests the Government to provide information on the eight instruments pending submission to Parliament adopted from the 99th Session (2010) to the 106th Session (2017) of the Conference.**

Dominica

Serious failure to submit. The Committee notes with **concern** that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. **The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to the House of Assembly of the 42 instruments adopted by the Conference during 21 sessions held between 1993 and 2017 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).** It recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19

of the Constitution with respect to the submission to the competent authorities of the instruments adopted by the Conference.

El Salvador

Serious failure to submit. The Committee notes the information provided by a Government representative before the Conference Committee in June 2018 indicating that the country welcomed the technical cooperation received from the ILO for the preparation of the Protocol of Institutional Procedures for the submission of ILO instruments. The Government representative indicated that the Government would soon take the first steps for the submission of the relevant Conventions and Recommendations to the competent authority. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent national authority. The Committee therefore urges the Government to submit to the Legislative Assembly the instruments adopted at the 23 sessions of the Conference held between October 1976 and June 2017. Moreover, the Committee once again requests the Government to provide information on the submission of the remaining instruments adopted by the Conference at its 63rd (Convention No. 148 and Recommendations Nos 156 and 157), 67th (Convention No. 154 and Recommendation No. 163), 69th (Recommendation No. 167) and 90th (Recommendations Nos 193 and 194) Sessions.*

Equatorial Guinea

Serious failure to submit. The Committee notes with **concern** that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. Accordingly, the Committee urges the Government to provide information on the submission to Parliament of the 35 instruments adopted by the Conference between 1993 and 2017.*

Eswatini

Failure to submit. The Committee notes the information provided by the Government indicating that it is preparing to submit the pending instruments to the House of Assembly and that it will inform the Committee of progress made in this regard. *The Committee reiterates its request for information on the submission to the House of Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15), as well as information on the submission of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted at the 106th Session of the Conference.*

Fiji

Serious failure to submit. The Committee notes the information provided by the Government in September 2017 indicating that, from 2006 to September 2013, the competent authority in Fiji was the Cabinet of Ministers. The Government further indicates that the competent authority is now the Parliament of Fiji. The Committee refers to its comments made since 2012 in which it noted that the Government would be able to submit the instruments adopted by the Conference only after the establishment of a Parliament. *The Committee expresses the firm hope, as did the Conference Committee in June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (Parliament). The Committee therefore requests the Government to provide information on the submission to Parliament of the 22 instruments adopted by the Conference at the 83rd, 86th, 88th, 90th, 91st, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (1996–2017).*

Gabon

Serious failure to submit. The Committee notes with **concern** that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information concerning the submission to Parliament of the 25 Conventions, Recommendations and Protocols adopted at the 82nd, 83rd, 85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions of the Conference.*

Gambia

Failure to submit. The Committee notes with **regret** that the Government has not replied to its previous comments. *The Committee once again requests the Government to provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).*

Grenada

Serious failure to submit. The Committee notes with **concern** that the Government has not replied to its previous comments. *The Committee refers to its previous observations and once again urges the Government to communicate the date on which the instruments adopted by the Conference between 1994 and 2006 were submitted and the decisions taken by the Parliament of Grenada on the instruments submitted. It also renews its request that the Government provide information on the submission to the Parliament of Grenada of the instruments adopted at the 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions of the Conference (2007–17).*

Guinea

Submission to the National Assembly. *The Committee requests the Government to provide information regarding the submission to the National Assembly of the 29 instruments adopted at 16 sessions held by the Conference between October 1996 and June 2017 (84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 101st, 103rd, 104th and 106th Sessions).*

Guinea-Bissau

Serious failure to submit. The Committee notes with **concern** that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to the National People's Assembly of the 20 instruments adopted by the Conference at its 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2001–17).*

Guyana

Submission to Parliament. The Committee notes with **regret** that the Government has not replied to its previous comments. *The Committee once again requests the Government to provide information on the submission to the Parliament of Guyana of the instruments adopted by the Conference at its 96th, 99th, 101st, 103rd, 104th and 106th Sessions.*

Haiti

Serious failure to submit. The Committee notes with **concern** that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). The Committee therefore urges the Government to provide information with regard to the submission to the National Assembly of the following instruments:*

- (a) *the remaining instruments from the 67th Session (Conventions Nos 154 and 155, and Recommendations Nos 163 and 164);*
- (b) *the instruments adopted at the 68th Session;*
- (c) *the remaining instruments adopted at the 75th Session (Convention No. 168, and Recommendations Nos 175 and 176); and*
- (d) *the instruments adopted at 25 sessions of the Conference held between 1989 and 2017.*

Hungary

Failure to submit. *The Committee once again requests the Government to provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).*

Islamic Republic of Iran

Failure to submit to the Islamic Consultative Assembly. The Committee requests the Government to provide information on the date of submission to the Islamic Consultative Assembly of the Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (90th Session, June 2002), and of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).

Kazakhstan

Serious failure to submit. The Committee notes that the Government has not replied to its previous comments. *The Committee therefore reiterates its request that the Government provide information on the date of submission of Recommendation No. 204 to Parliament. Moreover, the Committee once again requests the Government to provide information on the submission to Parliament of the remaining 34 instruments adopted by the Conference between 1993 and 2017, including on the date of submission and on any actions taken by Parliament with respect to the submission of these instruments.*

Kiribati

Serious failure to submit. The Committee notes that the Government has not replied to its previous comments. It notes that a Government representative noted the technical assistance provided by the ILO and expressed the hope that the Government would soon be in a position to meet its reporting obligations. *The Committee expresses the firm hope, as did the Conference Committee in June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore requests the Government to provide information on the submission to Parliament of the 21 instruments adopted by the Conference at 12 sessions held between 2000 and 2015 (88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).*

Kuwait

Serious failure to submit. The Committee notes that the Government has once again not provided the requested information on submission to the competent authority (the National Assembly). The Committee expresses the firm hope, as did the Conference Committee in 2016, 2017 and 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the National Assembly. *The Committee therefore once again requests the Government to indicate the date of submission of the instruments adopted by the Conference at its 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions to the National Assembly (Majlis Al-Ummah). It also refers to its previous comments and once again requests the Government to specify the date of submission to the National Assembly of the instruments adopted at the 77th Session (Conventions Nos 170 and 171, Recommendations Nos 177 and 178, and the Protocol of 1990), 80th Session (Recommendation No. 181), 86th Session (Recommendation No. 189) and 89th Session (Convention No. 184 and Recommendation No. 192) of the Conference. The Committee further requests the Government to provide information on the steps taken to submit the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted at the 106th Session of the International Labour Conference to the National Assembly.*

Kyrgyzstan

Serious failure to submit. The Committee notes that the Government has once again failed to reply to its previous comments. It recalls the information provided by the Government in November 2016 concerning the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), including on the informal economy in Kyrgyzstan. The Committee noted, however, that the Government has provided no information on submission. The Committee once again refers to the comments it has been formulating since 1994, and recalls that, under article 19 of the ILO Constitution, every Member undertakes to bring the instruments adopted by the International Labour Conference before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to the competent national authority of the 42 instruments adopted by the Conference at 21 sessions held from 1992 to 2017. The Committee reminds the Government of the availability of ILO technical assistance to assist it in overcoming this serious delay.*

Lebanon

Failure to submit. The Committee recalls the information provided by the Government in February 2016 indicating that the Ministry of Labour had submitted the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), to the Council of Ministers for consideration, and that the Council of Ministers had decided to establish a special commission to examine the Recommendation. *The Committee refers to its previous comments and once again requests the Government to indicate the date on which the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15) were submitted to the National Assembly (Majlis Al-Nuwwab). It also requests the Government to provide information on the submission of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted at the 106th Session of the Conference to the National Assembly.*

Lesotho

Failure to submit. The Committee notes with *concern* that the Government has not replied to its previous comments. *The Committee requests the Government to provide information on the submission to the National Assembly and to the Senate of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).*

Liberia

Serious failure to submit. The Committee notes that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore requests the Government to provide information on the submission to the National Legislature of the 23 remaining Conventions, Recommendations and Protocols adopted by the Conference between 2000 and 2017, as well as the 1990 and 1995 Protocols.*

Libya

Serious failure to submit. The Committee notes that the Government has not replied to its previous comments. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authorities. The Committee therefore requests the Government to provide information on the submission to the competent national authorities (within the meaning of article 19(5) and (6) of the ILO Constitution) of the 35 Conventions, Recommendations and Protocols adopted by the Conference at 18 sessions held between 1996 and 2017.*

Malawi

Failure to submit. *The Committee once again requests the Government to provide information on the submission to Parliament, and the dates of submission, of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).*

Malaysia

Serious failure to submit. The Committee notes with *regret* that the Government has not replied to its previous comments. *The Committee once again requests the Government to provide information on the submission to the Parliament of Malaysia of the instruments adopted by the Conference at its 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2006–17).*

Republic of Maldives

Failure to submit. The Committee notes with *concern* that the Government has not replied to its previous comments. The Committee recalls that the Republic of Maldives became a Member of the Organization on 15 May 2009. Subsequently, in accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text of the Convention, Recommendations and Protocol adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions. *The Committee requests the Government to provide information on the submission (indicating the dates of submission) to the People's Majlis of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15). It also requests the Government to provide information on the submission to the People's Majlis of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted at the 106th Session of the Conference.* The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under

article 19 of the Constitution with respect to the submission to the People's *Majlis* of the instruments adopted by the Conference.

Mali

Submission to the National Assembly. The Committee notes that the Government has submitted the instruments adopted at the 101st, 103rd, 104th and 106th Sessions of the Conference (2011–17). ***The Committee commends the Government for progress made in meeting its submission obligations pursuant to article 19 of the ILO Constitution.***

Malta

Serious failure to submit. The Committee notes with ***regret*** that the Government has not replied to its previous comments. ***The Committee once again requests the Government to provide information on the submission to the House of Representatives of the instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2007–17).***

Marshall Islands

Failure to submit. The Committee recalls that, as of 3 July 2007, Marshall Islands became a Member of the Organization. In accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text of the Convention, Recommendations and the Protocol adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15). ***The Committee invites the Government to provide information on the submission to Parliament of the seven instruments adopted by the Conference between 2010 and 2015 as well as on the submission of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session.***

The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the ILO Constitution relating to the submission of the instruments adopted by the Conference to the competent authorities.

Mexico

Submission to the Senate. ***The Committee requests the Government to provide information on the submission to the Senate of the Republic of the instruments adopted at the 95th, 96th, 100th, 103rd, 104th and 106th Sessions of the Conference.***

Republic of Moldova

Submission to Parliament. The Committee notes that the Government has not replied to its previous comments. ***The Committee requests the Government to provide information on the submission to Parliament of the instruments adopted by the Conference at its 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd and 106th Sessions.***

Mozambique

Submission to the Assembly of the Republic. The Committee notes with ***interest*** that the Safety and Health in Mines Convention, 1995 (No. 176), the Protocol of 2014 to the Forced Labour Convention, 1930, and the Protocol of 1995 to the Labour Inspection Convention, 1947, were ratified on 14 June 2018. ***The Committee reiterates its request that the Government provide information on the submission to the Assembly of the Republic of the 33 instruments adopted by the Conference at 16 sessions held between 1996 and 2014. It also requests the Government to specify the date of submission to the Assembly of the Republic of Convention No. 129 and to provide information on the submission of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), to the Assembly of the Republic.***

Pakistan

Serious failure to submit. The Committee notes the information provided by the Government representative before the Conference Committee in June 2018 indicating that, thanks to the technical assistance of the ILO, the exercise of submitting the outstanding 36 instruments to the competent authority had been completed. The relevant report would be communicated to the competent ministry in due course, and subsequently to the Cabinet. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority and to inform the ILO in this respect. The Committee once again requests the Government to complete the procedure in order to be in***

a position to submit the 39 instruments adopted by the Conference at 19 sessions held between 1994 and 2017 to the competent national authorities.

Papua New Guinea

Serious failure to submit. The Committee once again notes with **concern** that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to submit to the National Parliament the 23 instruments adopted by the Conference at 14 sessions held between 2000 and 2017.*

Rwanda

Serious failure to submit. *The Committee requests the Government to provide information on the date of submission to the National Assembly of the 36 Conventions, Recommendations and Protocols adopted by the Conference at 19 sessions held between 1993 and 2017 (80th, 82nd, 83rd, 84th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).*

Saint Kitts and Nevis

Serious failure to submit. The Committee notes with **concern** that the Government has once again failed to reply to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. The Committee also recalls that the competent national authority should normally be the legislature, that is, in the case of Saint Kitts and Nevis, the National Assembly. *The Committee expresses the firm hope, as did the Conference Committee in June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore once again urges the Government to provide information on the submission to the National Assembly of 27 instruments adopted by the Conference at 16 sessions held between 1996 and 2017 (83rd, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).*

Saint Lucia

Serious failure to submit. The Committee notes with **concern** that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to Parliament of the remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980 to 2017 (66th, 67th (Conventions Nos 155 and 156 and Recommendations Nos 164 and 165), 68th (Convention No. 157 and Protocol of 1982), 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).*

Saint Vincent and the Grenadines

Serious failure to submit. The Committee notes with **concern** that the Government has once again failed to reply to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the House of Assembly). The Committee therefore urges the Government to provide information on the submission to the House of Assembly of the 29 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at 16 sessions held from 1995 to 2017 (82nd, 83rd, 85th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).*

Samoa

Serious failure to submit. The Committee welcomes the information provided by the Government indicating that it has initiated the submission process of the instruments adopted by the Conference at its 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2006–17). *The Committee therefore requests the Government to provide information concerning the date of submission to the Legislative Assembly of the abovementioned instruments and the action taken as a result, if any.*

Consultations with the social partners. The Committee welcomes the information provided by the Government regarding consultations with the social partners in the Samoa National Tripartite Forum (SNTF) on four occasions in 2017, concerning the submission to the Legislative Assembly of the instruments adopted by the Conference at its 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2006–17). The Committee notes with *interest* the SNTF's recommendation that the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), and the Domestic Workers Convention, 2011 (No. 189), be considered for ratification. ***The Committee requests the Government to continue to provide information on the outcome of tripartite consultations in relation to submissions.***

Seychelles

Serious failure to submit. The Committee notes that the Government has not replied to its previous comments. ***Consequently, the Committee urges the Government to provide updated information on the submission to the National Assembly of the 20 instruments adopted by the Conference at 12 sessions held from 2001 to 2017.***

Sierra Leone

Serious failure to submit. The Committee notes with *deep concern* that the Government has once again failed to reply to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the Parliament). The Committee therefore strongly urges the Government to provide information on the submission to Parliament of the instruments adopted by the Conference in October 1976 (Convention No. 146 and Recommendation No. 154, adopted at its 62nd Session), and all instruments adopted between 1977 and 2017. The Government is urged to take steps without delay to submit the 99 pending instruments to Parliament.***

Solomon Islands

Serious failure to submit. The Committee notes once again with *deep concern* that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Parliament). The Committee therefore urges the Government to provide information on the submission to the National Parliament of the instruments adopted by the Conference between 1984 and 2017. The Government is urged to take steps without delay to submit the 63 pending instruments to the National Parliament.***

Somalia

Serious failure to submit. The Committee notes the information provided by the Government representative before the Conference Committee in June 2016 and June 2017, indicating that the Government recognized the failure to submit instruments adopted by the Conference to the competent national authority. A prolonged period of civil war and insecurity in the country had played a role in non-compliance. The situation in the country was improving. Technical assistance was requested to assist the Government with reporting obligations. The Government representative was optimistic that the Government would meet its constitutional obligations in the very near future. ***The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore requests the Government to provide information on the submission to the competent national authority concerning the 52 instruments adopted by the Conference between 1989 and 2017.***

Syrian Arab Republic

Serious failure to submit. The Committee notes that the Government has once again failed to reply to its previous comments. It recalls the Government's indications in September 2015 that the Consultative Council for Consultation and Social Dialogue held discussions related to the submission of the instruments adopted by the Conference to the competent authorities. The Committee also recalls that 39 instruments adopted by the Conference are still waiting to be submitted to the People's Council. ***The Committee hopes that, when national circumstances permit, the Government will be in a position to provide information on the submission to the People's Council of the instruments adopted by the Conference at its 66th and 69th Sessions (Recommendations Nos 167 and 168) and at its 70th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 85th, 86th, 90th (Recommendations Nos 193 and 194), 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions.***

The former Yugoslav Republic of Macedonia

Serious failure to submit. The Committee notes with **concern** that the Government has not replied to its previous comments. *The Committee requests the Government to provide the relevant information concerning the submission to the Assembly of the Republic (Sobranie) of 27 instruments (Conventions, Recommendations and Protocols) adopted by the Conference from October 1996 to June 2017.*

Timor-Leste

Failure to submit. The Committee notes that the Government has not replied to its previous comments. *The Committee therefore reiterates its request that the Government provide information on the submission to the National Parliament of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).*

Tuvalu

Failure to submit. The Committee notes once again with **concern** that the Government has not replied to its previous comments. It recalls that, as of 27 May 2008, Tuvalu became a Member of the Organization. In accordance with article 19(5)(a) and (6)(a) of the ILO Constitution, the Office communicated to the Government the text of the Convention, Recommendations and the Protocol adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15). *The Committee hopes that the Government will soon be in a position to provide information on the submission to the competent authorities of the eight instruments adopted by the Conference between 2010 and 2017.* The Committee recalls that the Government may request the technical assistance of the Office, if it so wishes, to assist it in achieving compliance with its obligations under article 19 of the ILO Constitution relating to the submission of the instruments adopted by the Conference to the competent authorities.

United Arab Emirates

Failure to submit. The Committee notes that the Government has not responded to its previous comments. *The Committee therefore once again requests the Government to complete the submission procedure and provide information on the submission to the competent national authorities of the MLC, 2006 (94th Session, February 2006), Convention No. 189 and Recommendations Nos 200, 201 and 202, adopted by the Conference at its 99th, 100th and 101st Sessions (2010–12). It also requests the Government to provide information on the submission to the competent national authorities of the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted by the Conference at its 103rd Session, the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted by the Conference at its 104th Session as well as the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session.*

Vanuatu

Serious failure to submit. The Committee once again notes with **concern** that the Government has not replied to its previous comments. It recalls that the constitutional obligation of submission is of the highest importance and is a fundamental element of the standards system of the ILO. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the Parliament of Vanuatu). The Committee therefore urges the Government to provide information on the submission to the Parliament of Vanuatu of the instruments adopted by the Conference at 11 sessions held between 2003 and 2017 (91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions). The Committee reminds the Government that, if it so wishes, it may seek technical assistance from the Office.*

Yemen

Serious failure to submit. The Committee recalls the information provided to the Conference by the Government in June 2018 indicating that it was not able to submit instruments adopted by the Conference to the House of Representatives due to the ongoing conflict in Yemen. *Noting the complex situation in the country, particularly the ongoing conflict, the Committee trusts that, when national circumstances permit, the Government will be in a position to provide information on the submission to the House of Representatives of the instruments adopted by the Conference at its 90th, 94th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions, as well as on the submission of Recommendations Nos 191, 192 and 198, adopted by the Conference at its 88th, 89th and 95th Sessions.*

Zambia

Failure to submit. The Committee notes once again that the Government has not replied to its previous comments. It recalls the information provided by the Government in September 2010 indicating that 12 instruments adopted by the Conference from 1996 to 2007 had been submitted to the National Assembly. ***The Committee once again requests the Government to indicate the date on which the abovementioned instruments were submitted to the National Assembly. It also requests the Government to provide information on any action taken by the National Assembly in relation to the submission, as well as on the tripartite consultations that took place with the social partners prior to the submission. In addition, the Committee once again requests the Government to provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).***

Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Algeria, Argentina, Armenia, Austria, Barbados, Belarus, Belgium, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Cabo Verde, Cambodia, Cameroon, Canada, Colombia, Cook Islands, Côte d'Ivoire, Djibouti, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, France, Georgia, Germany, Ghana, Greece, Honduras, Ireland, Italy, Jamaica, Jordan, Kenya, Lao People's Democratic Republic, Madagascar, Mauritania, Mauritius, Mongolia, Morocco, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Oman, Palau, Panama, Paraguay, Peru, Portugal, Qatar, Romania, Russian Federation, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Singapore, South Africa, South Sudan, Spain, Sri Lanka, Sudan, Suriname, Sweden, Tajikistan, Thailand, Tonga, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, Ukraine, United Kingdom, United States, Uruguay, Uzbekistan, Bolivarian Republic of Venezuela, Viet Nam.*



Appendices

**Appendix I. Reports requested on ratified Conventions
registered as at 8 December 2018**
(articles 22 and 35 of the Constitution)

Article 22 of the Constitution of the International Labour Organization provides that “each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request”. Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 22, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 204th Session (November 1977), the Governing Body approved the following arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under articles 22 and 35 of the Constitution:

- (a) the practice of tabular classification of reports, without summary of their contents, which has been followed for several years in respect of reports subsequent to first reports after ratification, should be applied to all reports, including first reports;
- (b) the Director-General should make available, for consultation at the Conference, the original texts of all reports received on ratified Conventions; in addition, photocopies of the reports should be supplied on request to members of delegations.

At its 267th Session (November 1996), the Governing Body approved new measures for rationalization and simplification.

Reports received under articles 22 and 35 of the Constitution appear in simplified form in a table annexed to the report of the Committee of Experts on the Application of Conventions and Recommendations; first reports are indicated in parentheses.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Standards.

Appendix I. Reports requested on ratified Conventions

(articles 22 and 35 of the Constitution)

List of reports registered as at 8 December 2018 and of reports not received

Note: First reports are indicated in parentheses.

Afghanistan	5 reports requested
· No reports received: Conventions Nos 100, 111, 137, 140, 142	
Albania	18 reports requested
· 11 reports received: Conventions Nos 29, 97, 102, 105, 122, 138, 143, 168, 176, 181, 182	
· 7 reports not received: Conventions Nos 81, 100, 111, 129, 177, 185, (MLC, 2006)	
Algeria	10 reports requested
All reports received: Conventions Nos 6, 32, 42, 44, 81, 87, 100, 111, 142, (MLC, 2006)	
Angola	11 reports requested
· 6 reports received: Conventions Nos 17, 19, 26, 27, 107, 111	
· 5 reports not received: Conventions Nos 12, 18, 81, 100, (188)	
Antigua and Barbuda	4 reports requested
· No reports received: Conventions Nos 81, 100, 111, 142	
Argentina	11 reports requested
· 10 reports received: Conventions Nos 81, 87, 100, (102), 111, 129, 142, 169, (188), 189	
· 1 report not received: Convention No. 177	
Armenia	5 reports requested
All reports received: Conventions Nos 81, 100, 111, 174, 176	
Australia	4 reports requested
All reports received: Conventions Nos 81, 100, 111, 142	
Austria	5 reports requested
All reports received: Conventions Nos 81, 100, 111, 142, 172	
Azerbaijan	9 reports requested
All reports received: Conventions Nos 81, 100, 111, 129, (132), 140, 142, 149, 185	
Bahamas	15 reports requested
· 13 reports received: Conventions Nos 12, 17, 19, 29, 42, 81, 97, 100, 105, 111, 117, 138, 182	
· 2 reports not received: Conventions Nos 185, MLC, 2006	
Bahrain	2 reports requested
All reports received: Conventions Nos 81, 111	
Bangladesh	6 reports requested
All reports received: Conventions Nos 81, 100, 107, 111, 149, 185	
Barbados	18 reports requested
· No reports received: Conventions Nos 12, 17, 19, 29, 42, 81, 95, 97, 98, 100, 102, 105, 111, 118, 122, 128, 138, 172	

Belarus	6 reports requested
All reports received: Conventions Nos 29, 81, 100, 111, 142, 149	
Belgium	12 reports requested
All reports received: Conventions Nos 81, 82, 100, 107, 111, 129, 140, 149, (167), (175), 177, 189	
Belize	31 reports requested
· 16 reports received: Conventions Nos 11, 12, 26, 42, 81, 87, 94, 95, 98, 99, 108, 135, 141, 144, 151, (MLC, 2006) · 15 reports not received: Conventions Nos 19, 29, 88, 97, 100, 105, 111, 115, 138, 140, 150, 154, 155, 156, 182	
Benin	4 reports requested
· 3 reports received: Conventions Nos 81, 100, 111 · 1 report not received: Convention No. 11	
Bolivia, Plurinational State of	9 reports requested
All reports received: Conventions Nos 81, 100, 111, 117, 129, 131, 138, 169, 189	
Bosnia and Herzegovina	9 reports requested
All reports received: Conventions Nos 81, 100, 111, 129, 140, 142, 177, 185, (188)	
Botswana	9 reports requested
All reports received: Conventions Nos 19, 29, 87, 98, 100, 105, 111, 138, 182	
Brazil	9 reports requested
All reports received: Conventions Nos 81, 98, 100, 111, 117, 140, 142, 169, 185	
Brunei Darussalam	2 reports requested
· No reports received: Conventions Nos 138, 182	
Bulgaria	4 reports requested
All reports received: Conventions Nos 81, 100, 111, 177	
Burkina Faso	6 reports requested
All reports received: Conventions Nos 81, 100, 111, 129, 142, (187)	
Burundi	11 reports requested
· 10 reports received: Conventions Nos 12, 17, 26, 27, 42, 81, 100, 105, 138, 182 · 1 report not received: Convention No. 111	
Cabo Verde	8 reports requested
All reports received: Conventions Nos 17, 19, 81, 100, 111, 118, 138, (MLC, 2006)	
Cambodia	4 reports requested
All reports received: Conventions Nos 100, 105, 111, 122	
Cameroon	5 reports requested
All reports received: Conventions Nos 81, 87, 100, 111, 122	
Canada	3 reports requested
All reports received: Conventions Nos 100, 111, (138)	
Central African Republic	6 reports requested
All reports received: Conventions Nos 81, 100, 111, 117, 142, 169	

Chad	14 reports requested
· No reports received: Conventions Nos 6, 11, 29, 81, 98, 100, (102), 105, 111, (122), 138, 144, 151, 182	
Chile	5 reports requested
All reports received: Conventions Nos 100, 111, 140, 169, 189	
China	3 reports requested
All reports received: Conventions Nos 100, 111, (MLC, 2006)	
China - Hong Kong Special Administrative Region	2 reports requested
All reports received: Conventions Nos 81, 142	
China - Macau Special Administrative Region	3 reports requested
All reports received: Conventions Nos 81, 100, 111	
Colombia	13 reports requested
All reports received: Conventions Nos 26, 81, 95, 99, 100, 111, 129, 136, 162, 169, 170, 174, 189	
Comoros	15 reports requested
· 5 reports received: Conventions Nos 12, 17, 42, 52, (144)	
· 10 reports not received: Conventions Nos 6, 11, 13, 14, 81, 89, 100, 101, 106, 111	
Congo	13 reports requested
· No reports received: Conventions Nos 29, 81, 87, 100, 105, 111, 149, 150, 152, 182, (185), (MLC, 2006), (188)	
Cook Islands	5 reports requested
All reports received: Conventions Nos (11), (14), (29), (99), (105)	
Costa Rica	7 reports requested
All reports received: Conventions Nos 81, 100, 111, 117, 129, 169, 189	
Côte d'Ivoire	15 reports requested
· 8 reports received: Conventions Nos 18, 19, 29, 81, 105, 110, 111, 129	
· 7 reports not received: Conventions Nos 100, (150), (155), (160), (161), (171), (187)	
Croatia	13 reports requested
· 11 reports received: Conventions Nos 29, 81, 98, 100, 102, 106, 111, 121, 129, 156, 182	
· 2 reports not received: Conventions Nos 32, 185	
Cuba	7 reports requested
All reports received: Conventions Nos 81, 100, 107, 110, 111, 140, 142	
Cyprus	6 reports requested
All reports received: Conventions Nos 81, 100, 111, 142, (170), 172	
Czech Republic	6 reports requested
All reports received: Conventions Nos 81, 100, 111, 129, 140, 142	

Democratic Republic of the Congo	22 reports requested
· 10 reports received: Conventions Nos 11, 12, 19, 26, 87, 98, 102, 118, 121, 135 · 12 reports not received: Conventions Nos 27, 81, 94, 95, 100, 111, 117, 119, 120, 144, 150, 158	
Denmark	7 reports requested
All reports received: Conventions Nos 81, 100, 111, 129, 142, 149, 169	
Denmark - Faroe Islands	1 report requested
All reports received: Convention No. (108)	
Denmark - Greenland	2 reports requested
All reports received: Conventions Nos (98), 169	
Djibouti	15 reports requested
· No reports received: Conventions Nos 12, 17, 18, 19, 24, 29, 37, 38, 81, 100, 105, 111, 122, 138, 182	
Dominica	26 reports requested
· No reports received: Conventions Nos 8, 11, 12, 14, 16, 19, 22, 26, 29, 81, 87, 94, 95, 97, 98, 100, 105, 108, 111, 135, 138, 144, 147, 150, 169, 182	
Dominican Republic	8 reports requested
· 7 reports received: Conventions Nos 81, 100, 107, 111, 172, (183), 189 · 1 report not received: Convention No. (102)	
Ecuador	10 reports requested
All reports received: Conventions Nos 81, 98, 100, 110, 111, 117, 142, 149, 169, 189	
Egypt	9 reports requested
All reports received: Conventions Nos 81, 87, 100, 105, 107, 111, 129, 142, 149	
El Salvador	11 reports requested
All reports received: Conventions Nos 81, 87, 100, 107, 111, 129, 138, 142, 144, 149, 182	
Equatorial Guinea	14 reports requested
· No reports received: Conventions Nos 1, 14, 29, 30, (68), 87, (92), 98, 100, 103, 105, 111, 138, 182	
Eritrea	7 reports requested
· 5 reports received: Conventions Nos 29, 87, 98, 100, 111 · 2 reports not received: Conventions Nos 105, 138	
Estonia	12 reports requested
All reports received: Conventions Nos 27, 29, 81, 100, 105, 111, 122, 129, 138, 182, (MLC, 2006), (188)	
Eswatini	2 reports requested
All reports received: Conventions Nos 87, 98	
Ethiopia	3 reports requested
All reports received: Conventions Nos 100, 111, 181	
Fiji	11 reports requested
· 8 reports received: Conventions Nos 81, 100, 111, 129, 142, 149, 169, 172 · 3 reports not received: Conventions Nos 11, 12, 19	
Finland	10 reports requested
All reports received: Conventions Nos 81, 100, 111, 129, 140, 142, 149, 177, MLC, 2006, 189	

France	13 reports requested
· 11 reports received: Conventions Nos 81, 97, 100, 106, 111, 129, 137, 140, 142, 185, (188) · 2 reports not received: Conventions Nos 82, 149	
France - French Polynesia	10 reports requested
· No reports received: Conventions Nos 29, 81, 82, 100, 111, 125, 126, 129, 142, 149	
France - French Southern and Antarctic Territories	1 report requested
· No reports received: Convention No. 111	
France - New Caledonia	8 reports requested
All reports received: Conventions Nos 81, 82, 100, 111, 129, 142, 149, MLC, 2006	
Gabon	7 reports requested
· 6 reports received: Conventions Nos 29, 105, 138, 144, (161), 182 · 1 report not received: Convention No. (MLC, 2006)	
Gambia	8 reports requested
· No reports received: Conventions Nos 29, 87, 98, 100, 105, 111, 138, 182	
Georgia	8 reports requested
All reports received: Conventions Nos 29, 100, 105, 117, 138, 142, 182, 185	
Germany	10 reports requested
All reports received: Conventions Nos 29, 105, 138, 140, 142, 144, 152, 172, 182, 189	
Ghana	8 reports requested
· No reports received: Conventions Nos 29, 105, 107, 117, 138, 144, 149, 182	
Greece	11 reports requested
All reports received: Conventions Nos 29, 81, 87, 98, 105, 138, 144, 149, 182, MLC, 2006 · 1 report not received: Convention No. 142	
Grenada	11 reports requested
· No reports received: Conventions Nos 12, 19, 29, 81, 87, 97, 98, 105, 138, 144, 182	
Guatemala	10 reports requested
All reports received: Conventions Nos 29, 87, 105, 110, 117, 138, 144, 149, 169, 182	
Guinea	15 reports requested
· 7 reports received: Conventions Nos 29, 45, 105, 138, 142, 144, 182 · 8 reports not received: Conventions Nos 114, 117, 118, 121, 135, 140, 149, 151	
Guinea - Bissau	25 reports requested
· No reports received: Conventions Nos 6, 12, 17, 18, 19, 26, 27, 29, 45, 68, 69, 73, 74, 81, 88, 91, 92, 98, 100, 105, 107, 108, 111, 138, 182	
Guyana	17 reports requested
· 8 reports received: Conventions Nos 19, 29, 42, 98, 142, 166, 182, (189) · 9 reports not received: Conventions Nos 94, 97, 105, 138, 139, 140, 144, 149, 172	
Haiti	24 reports requested
· 4 reports received: Conventions Nos 1, 14, 30, 106 · 20 reports not received: Conventions Nos 12, 17, 19, 24, 25, 29, 42, 45, 77, 78, 81, 87, 90, 98, 100, 105, 107, 111, 138, 182	

Honduras	8 reports requested
All reports received: Conventions Nos 29, 87, 105, 138, 144, 169, 182, (MLC, 2006)	
Hungary	9 reports requested
· No reports received: Conventions Nos 29, 105, 138, 140, 142, 144, 182, 185, MLC, 2006	
Iceland	5 reports requested
All reports received: Conventions Nos 29, 105, 138, 144, 182	
India	8 reports requested
All reports received: Conventions Nos 29, 81, 105, 107, 141, 142, 144, 185	
Indonesia	6 reports requested
All reports received: Conventions Nos 29, 105, 138, 144, 182, 185	
Iran, Islamic Republic of	4 reports requested
All reports received: Conventions Nos 29, 105, 142, 182	
Iraq	22 reports requested
· 15 reports received: Conventions Nos 11, 19, 29, 77, 78, 105, 107, 138, 140, 142, 144, 167, 172, 182, (187)	
· 7 reports not received: Conventions Nos 8, 22, 23, 92, 146, 147, 149	
Ireland	14 reports requested
All reports received: Conventions Nos 27, 29, 32, 81, 87, 98, 105, 138, 142, 144, 172, 177, 182, 189	
Israel	7 reports requested
All reports received: Conventions Nos 29, 105, 117, 138, 142, 144, 182	
Italy	14 reports requested
All reports received: Conventions Nos 27, 29, 97, 105, 117, 129, 138, 142, 143, 144, 149, 182, MLC, 2006, 189	
Jamaica	14 reports requested
· 4 reports received: Conventions Nos 11, 19, 87, 98	
· 10 reports not received: Conventions Nos 29, 94, 97, 105, 117, 138, 144, 149, 182, (189)	
Japan	7 reports requested
· 6 reports received: Conventions Nos 29, 87, 138, 142, 144, 182	
· 1 report not received: Convention No. MLC, 2006	
Jordan	9 reports requested
· 5 reports received: Conventions Nos 29, 117, 138, 144, 182	
· 4 reports not received: Conventions Nos 105, 142, 185, (MLC, 2006)	
Kazakhstan	7 reports requested
· 6 reports received: Conventions Nos 29, 87, 138, 144, 182, 185	
· 1 report not received: Convention No. 105	
Kenya	10 reports requested
· 6 reports received: Conventions Nos 29, 97, 105, 138, 144, 149	
· 4 reports not received: Conventions Nos 140, 142, 143, 182	
Kiribati	9 reports requested
· 2 reports received: Conventions Nos 98, 111	
· 7 reports not received: Conventions Nos 29, 87, 100, 105, 138, 182, (185)	

Korea, Republic of	6 reports requested
All reports received: Conventions Nos 19, 138, 142, 144, 182, 185	
Kuwait	6 reports requested
All reports received: Conventions Nos 29, 105, 117, 138, 144, 182	
Kyrgyzstan	32 reports requested
· No reports received: Conventions Nos 11, 17, 27, 29, 32, 45, 77, 78, 79, 81, 87, 90, 95, 97, 98, 100, 105, 111, 119, 120, 122, 124, 131, 138, 142, 144, 149, 154, 157, 159, 160, 182	
Lao People's Democratic Republic	6 reports requested
· 2 reports received: Conventions Nos 111, 182	
· 4 reports not received: Conventions Nos 6, 29, 138, 144	
Latvia	7 reports requested
All reports received: Conventions Nos 29, 105, 138, 142, 144, 149, 182	
Lebanon	8 reports requested
· 1 report received: Convention No. 100	
· 7 reports not received: Conventions Nos 29, 81, 105, 138, 142, 172, 182	
Lesotho	6 reports requested
· No reports received: Conventions Nos 29, 105, 135, 138, 144, 182	
Liberia	9 reports requested
· 4 reports received: Conventions Nos 81, 111, 144, 182	
· 5 reports not received: Conventions Nos 29, 87, 98, 105, MLC, 2006	
Libya	15 reports requested
· 12 reports received: Conventions Nos 29, 81, 87, 95, 98, 102, 105, 118, 121, 122, 131, 182	
· 3 reports not received: Conventions Nos 53, 130, 138	
Lithuania	9 reports requested
All reports received: Conventions Nos 29, 105, 138, 142, 144, 149, 182, MLC, 2006, (188)	
Luxembourg	9 reports requested
All reports received: Conventions Nos 29, 105, 138, 142, 149, 172, 182, 185, MLC, 2006	
Madagascar	17 reports requested
· 10 reports received: Conventions Nos 6, 26, 81, 88, 95, 97, 124, 129, 159, 173	
· 7 reports not received: Conventions Nos 29, 105, 117, 138, 144, 182, 185	
Malawi	18 reports requested
· 4 reports received: Conventions Nos 29, 87, 98, 138	
· 14 reports not received: Conventions Nos 26, 45, 81, 97, 99, 105, 107, 129, 144, 149, 150, 158, 159, 182	
Malaysia	10 reports requested
· 6 reports received: Conventions Nos 29, 81, 98, (131), 138, 182	
· 4 reports not received: Conventions Nos 95, 100, 123, 144	
Malaysia - Malaysia - Peninsular	4 reports requested
· 1 report received: Convention No. 19	
· 3 reports not received: Conventions Nos 11, 12, 17	
Malaysia - Malaysia - Sabah	3 reports requested
· No reports received: Conventions Nos 16, 94, 97	

Malaysia - Malaysia - Sarawak **5 reports requested**

- 1 report received: Convention No. 19
- 4 reports not received: Conventions Nos 11, 12, 16, 94

Maldives, Republic of **7 reports requested**

- No reports received: Conventions Nos 29, (100), 105, 138, 182, (185), (MLC, 2006)

Mali **9 reports requested**

All reports received: Conventions Nos 29, (88), 105, (122), 138, 144, (155), (181), 182

Malta **7 reports requested**

- No reports received: Conventions Nos 29, 105, 117, 138, 149, 182, MLC, 2006

Marshall Islands **1 report requested**

All reports received: Convention No. 185

Mauritania **5 reports requested**

- No reports received: Conventions Nos 29, 100, 105, 138, 182

Mauritius **6 reports requested**

All reports received: Conventions Nos 29, 105, 138, 144, 182, 189

Mexico **11 reports requested**

- 5 reports received: Conventions Nos 29, 87, (138), 169, 182
- 6 reports not received: Conventions Nos 105, 110, 140, 142, 144, 172

Moldova, Republic of **13 reports requested**

- 2 reports received: Conventions Nos 81, 129
- 11 reports not received: Conventions Nos 29, 92, 105, 117, 133, 138, 142, 144, 152, 182, 185

Mongolia **5 reports requested**

All reports received: Conventions Nos 29, 105, 138, 144, 182

Montenegro **9 reports requested**

- 8 reports received: Conventions Nos 29, 105, 138, 140, 142, 144, (171), 182
- 1 report not received: Convention No. (185)

Morocco **6 reports requested**

All reports received: Conventions Nos 29, 105, 138, 144, 182, (188)

Mozambique **8 reports requested**

All reports received: Conventions Nos 29, 81, 87, 98, 105, 138, 144, 182

Myanmar **5 reports requested**

All reports received: Conventions Nos 27, 29, 87, 182, (MLC, 2006)

Namibia **5 reports requested**

All reports received: Conventions Nos 29, 105, 138, 144, 182

Nepal **8 reports requested**

All reports received: Conventions Nos 29, 98, 105, 131, 138, 144, 169, 182

Netherlands **9 reports requested**

All reports received: Conventions Nos 29, 105, 138, 140, 142, 144, 169, 177, 182

Netherlands - Aruba **16 reports requested**

- 6 reports received: Conventions Nos 81, 87, 90, 95, 122, 131
- 10 reports not received: Conventions Nos 29, 94, 105, 113, 114, 138, 140, 142, 144, 182

Netherlands - Caribbean Part of the Netherlands **3 reports requested**

All reports received: Conventions Nos 29, 105, 172

Netherlands - Curaçao **14 reports requested**

- 12 reports received: Conventions Nos 10, 29, 33, 81, 87, 90, 94, 95, 105, 144, (151), 172
- 2 reports not received: Conventions Nos (182), (MLC, 2006)

Netherlands - Sint Maarten **4 reports requested**

All reports received: Conventions Nos 29, 105, 144, 172

New Zealand **5 reports requested**

All reports received: Conventions Nos 29, 82, 105, 144, 182

New Zealand - Tokelau **3 reports requested**

All reports received: Conventions Nos 29, 82, 105

Nicaragua **18 reports requested**

- 10 reports received: Conventions Nos 29, 110, 117, 138, 140, 142, 144, 169, 182, 189
- 8 reports not received: Conventions Nos 6, 17, 77, 78, 95, 105, 137, (MLC, 2006)

Niger **6 reports requested**

All reports received: Conventions Nos 29, 105, 117, 138, 142, 182

Nigeria **13 reports requested**

- 12 reports received: Conventions Nos 11, 26, 29, 45, 94, 98, 100, 105, 137, 138, 144, 182
- 1 report not received: Convention No. 185

Norway **12 reports requested**

All reports received: Conventions Nos 12, 19, 29, 105, 118, 138, 142, 144, 149, 169, 182, (188)

Pakistan **11 reports requested**

All reports received: Conventions Nos 27, 32, 81, 87, 90, 98, 100, 107, 111, 144, 185

Palau **1 report requested**

All reports received: Convention No. MLC, 2006

Panama **7 reports requested**

All reports received: Conventions Nos 87, 98, 107, 110, 117, 122, 189

Papua New Guinea **12 reports requested**

- No reports received: Conventions Nos 26, 27, 87, 98, 99, 100, 105, 111, 122, 138, 158, 182

Paraguay **7 reports requested**

All reports received: Conventions Nos 87, 98, 117, 122, 123, 169, 189

Peru 6 reports requested

All reports received: Conventions Nos 87, 98, 122, 159, 169, (183)

Philippines 7 reports requested

All reports received: Conventions Nos 87, 98, 110, 122, 149, 185, 189

Poland 6 reports requested

All reports received: Conventions Nos 87, 98, 122, 140, 142, 149

Portugal 8 reports requested

- 6 reports received: Conventions Nos 87, 98, 117, 122, 142, 149
- 2 reports not received: Conventions Nos (MLC, 2006), 189

Qatar 1 report requested

All reports received: Convention No. 81

Romania 6 reports requested

- No reports received: Conventions Nos 27, 87, 98, 117, 122, (MLC, 2006)

Russian Federation 8 reports requested

All reports received: Conventions Nos 87, 98, 122, 140, 142, 149, (175), 185

Rwanda 10 reports requested

- 6 reports received: Conventions Nos 17, 26, 94, 100, 111, 123
- 4 reports not received: Conventions Nos 42, 87, 98, 122

Saint Kitts and Nevis 3 reports requested

- 2 reports received: Conventions Nos 87, 98
- 1 report not received: Convention No. MLC, 2006

Saint Lucia 22 reports requested

- No reports received: Conventions Nos 5, 7, 8, 11, 12, 16, 17, 19, 26, 29, 87, 94, 95, 97, 98, 100, 105, 108, 111, 154, 158, 182

Saint Vincent and the Grenadines 21 reports requested

- 5 reports received: Conventions Nos 26, 87, 94, 98, (102)
- 16 reports not received: Conventions Nos 11, 12, 19, 29, 81, 95, 100, 105, 108, 111, 122, 129, 138, 144, 182, (MLC, 2006)

Samoa 3 reports requested

All reports received: Conventions Nos 87, 98, 182

San Marino 20 reports requested

- 4 reports received: Conventions Nos 100, 103, 143, 150
- 16 reports not received: Conventions Nos 29, 87, 98, 105, 119, 138, 140, 142, 144, 148, 151, 156, 159, 160, 161, 182

Sao Tome and Principe 2 reports requested

- No reports received: Conventions Nos 87, 98

Senegal 4 reports requested

All reports received: Conventions Nos 87, 98, 117, 122

Serbia	8 reports requested
· 7 reports received: Conventions Nos 87, (94), 98, 122, 140, 142, MLC, 2006 · 1 report not received: Convention No. 144	
Seychelles	3 reports requested
All reports received: Conventions Nos 87, 98, 149	
Sierra Leone	23 reports requested
· No reports received: Conventions Nos 8, 16, 17, 19, 22, 26, 29, 32, 45, 87, 88, 94, 95, 98, 99, 100, 101, 105, 111, 119, 125, 126, 144	
Singapore	9 reports requested
· No reports received: Conventions Nos 19, 29, 32, 81, 94, 98, 100, 144, 182	
Slovakia	5 reports requested
All reports received: Conventions Nos 87, 98, 122, 140, 142	
Slovenia	12 reports requested
· 10 reports received: Conventions Nos 87, 95, 98, 100, 111, 122, 140, 143, 149, 173 · 2 reports not received: Conventions Nos 142, (MLC, 2006)	
Solomon Islands	18 reports requested
· 15 reports received: Conventions Nos 11, 12, 16, 19, 26, 29, 81, 87, 94, 98, 100, 105, 108, 111, 138 · 3 reports not received: Conventions Nos 42, 95, 182	
Somalia	16 reports requested
· No reports received: Conventions Nos 16, 17, 19, 22, 23, 29, 45, 84, 85, (87), 94, 95, (98), 105, 111, (182)	
South Africa	5 reports requested
· No reports received: Conventions Nos 87, 98, MLC, 2006, (188), 189	
South Sudan	3 reports requested
· No reports received: Conventions Nos 98, 100, 111	
Spain	9 reports requested
All reports received: Conventions Nos 87, 98, 117, 122, 140, 142, 169, 172, 185	
Sri Lanka	5 reports requested
· 4 reports received: Conventions Nos 87, 98, 110, (122) · 1 report not received: Convention No. (185)	
Sudan	3 reports requested
All reports received: Conventions Nos 98, 117, 122	
Suriname	3 reports requested
All reports received: Conventions Nos 87, 98, 122	

Sweden	6 reports requested
All reports received: Conventions Nos 87, 98, 122, 140, 142, 149	
Switzerland	6 reports requested
All reports received: Conventions Nos 87, 98, 122, 142, 172, 189	
Syrian Arab Republic	5 reports requested
· 4 reports received: Conventions Nos 87, 98, 117, 144 · 1 report not received: Convention No. 107	
Tajikistan	8 reports requested
· No reports received: Conventions Nos 87, 97, 98, 122, 124, 142, 149, 177	
Tanzania, United Republic of	5 reports requested
All reports received: Conventions Nos 87, 98, 140, 142, 149	
Thailand	3 reports requested
All reports received: Conventions Nos 122, (MLC, 2006), (187)	
The former Yugoslav Republic of Macedonia	16 reports requested
· 10 reports received: Conventions Nos 27, 32, 90, 94, 97, 100, 111, 131, 143, 144 · 6 reports not received: Conventions Nos 87, 98, 122, 140, 142, 177	
Timor-Leste	6 reports requested
· No reports received: Conventions Nos 29, 87, 98, (100), (111), 182	
Togo	3 reports requested
All reports received: Conventions Nos 87, 98, 122	
Trinidad and Tobago	7 reports requested
· No reports received: Conventions Nos 87, 97, 98, 100, 111, 122, 144	
Tunisia	9 reports requested
All reports received: Conventions Nos 87, 98, 100, 107, 111, 117, 122, 142, (185)	
Turkey	15 reports requested
All reports received: Conventions Nos 55, 68, 69, 73, 87, 92, 98, 108, 122, 133, 134, 142, 146, 164, 166	
Turkmenistan	3 reports requested
All reports received: Conventions Nos 87, 98, 185	
Uganda	14 reports requested
· No reports received: Conventions Nos 11, 17, 19, 87, 94, 95, 98, 100, 111, 122, 123, 124, 143, 162	
Ukraine	10 reports requested
All reports received: Conventions Nos 81, 87, 98, (102), 117, 122, 129, 140, 142, 149	

United Kingdom 7 reports requested

All reports received: Conventions Nos 82, 87, 98, 122, 140, 142, MLC, 2006

United Kingdom - Anguilla 9 reports requested

All reports received: Conventions Nos 26, 59, 82, 85, 87, 98, 99, 105, 140

United Kingdom - Bermuda 3 reports requested

All reports received: Conventions Nos 82, 87, 98

United Kingdom - British Virgin Islands 3 reports requested

All reports received: Conventions Nos 82, 87, 98

United Kingdom - Cayman Islands 1 report requested

All reports received: Convention No. MLC, 2006

United Kingdom - Falkland Islands (Malvinas) 3 reports requested

All reports received: Conventions Nos 82, 87, 98

United Kingdom - Gibraltar 4 reports requested

All reports received: Conventions Nos 82, 87, 98, 142

United Kingdom - Guernsey 4 reports requested

All reports received: Conventions Nos 87, 98, 122, 142

United Kingdom - Isle of Man 3 reports requested

All reports received: Conventions Nos 87, 98, 122

United Kingdom - Jersey 3 reports requested

All reports received: Conventions Nos 87, 98, 140

United Kingdom - Montserrat 4 reports requested

All reports received: Conventions Nos 82, 87, 95, 98

United Kingdom - St Helena 3 reports requested

All reports received: Conventions Nos 82, 87, 98

Uruguay 7 reports requested

All reports received: Conventions Nos 87, 98, 110, 122, 149, 172, 189

Uzbekistan **3 reports requested**

All reports received: Conventions Nos (87), 98, 122

Vanuatu **8 reports requested**

- 7 reports received: Conventions Nos 29, 87, 98, 100, 105, 111, 182
- 1 report not received: Convention No. 185

Venezuela, Bolivarian Republic of **8 reports requested**

All reports received: Conventions Nos 87, 98, 117, 122, 140, 142, 149, 169

Viet Nam **9 reports requested**

- 8 reports received: Conventions Nos 6, 27, 100, 111, 123, 124, 144, (187)
- 1 report not received: Convention No. 122

Yemen **21 reports requested**

- 18 reports received: Conventions Nos 19, 29, 59, 81, 87, 94, 95, 98, 100, 105, 111, 122, 131, 138, 144, 156, 158, 182
- 3 reports not received: Conventions Nos 16, 58, 185

Zambia **6 reports requested**

All reports received: Conventions Nos 87, 98, 117, 122, 138, 149

Zimbabwe **3 reports requested**

All reports received: Conventions Nos 87, 98, 140

Grand Total

A total of 1,683 reports (article 22) were requested,
of which 1,038 reports (61.68 per cent) were received.

A total of 107 reports (article 35) were requested,
of which 84 reports (78.50 per cent) were received.

**Appendix II. Statistical table of reports received
on ratified Conventions as at 8 December 2018**
(article 22 of the Constitution)

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered for the session of the Conference	
1932	447	-		406	90.8%	423	94.6%
1933	522	-		435	83.3%	453	86.7%
1934	601	-		508	84.5%	544	90.5%
1935	630	-		584	92.7%	620	98.4%
1936	662	-		577	87.2%	604	91.2%
1937	702	-		580	82.6%	634	90.3%
1938	748	-		616	82.4%	635	84.9%
1939	766	-		588	76.8%	-	
1944	583	-		251	43.1%	314	53.9%
1945	725	-		351	48.4%	523	72.2%
1946	731	-		370	50.6%	578	79.1%
1947	763	-		581	76.1%	666	87.3%
1948	799	-		521	65.2%	648	81.1%
1949	806	134	16.6%	666	82.6%	695	86.2%
1950	831	253	30.4%	597	71.8%	666	80.1%
1951	907	288	31.7%	507	77.7%	761	83.9%
1952	981	268	27.3%	743	75.7%	826	84.2%
1953	1026	212	20.6%	840	75.7%	917	89.3%
1954	1175	268	22.8%	1077	91.7%	1119	95.2%
1955	1234	283	22.9%	1063	86.1%	1170	94.8%
1956	1333	332	24.9%	1234	92.5%	1283	96.2%
1957	1418	210	14.7%	1295	91.3%	1349	95.1%
1958	1558	340	21.8%	1484	95.2%	1509	96.8%
As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions							
1959	995	200	20.4%	864	86.8%	902	90.6%
1960	1100	256	23.2%	838	76.1%	963	87.4%
1961	1362	243	18.1%	1090	80.0%	1142	83.8%
1962	1309	200	15.5%	1059	80.9%	1121	85.6%
1963	1624	280	17.2%	1314	80.9%	1430	88.0%
1964	1495	213	14.2%	1268	84.8%	1356	90.7%
1965	1700	282	16.6%	1444	84.9%	1527	89.8%
1966	1562	245	16.3%	1330	85.1%	1395	89.3%
1967	1883	323	17.4%	1551	84.5%	1643	89.6%
1968	1647	281	17.1%	1409	85.5%	1470	89.1%
1969	1821	249	13.4%	1501	82.4%	1601	87.9%
1970	1894	360	18.9%	1463	77.0%	1549	81.6%
1971	1992	237	11.8%	1504	75.5%	1707	85.6%
1972	2025	297	14.6%	1572	77.6%	1753	86.5%
1973	2048	300	14.6%	1521	74.3%	1691	82.5%
1974	2189	370	16.5%	1854	84.6%	1958	89.4%
1975	2034	301	14.8%	1663	81.7%	1764	86.7%
1976	2200	292	13.2%	1831	83.0%	1914	87.0%

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered for the session of the Conference	
As a result of a decision by the Governing Body (November 1976), detailed reports were requested as from 1977 until 1994, according to certain criteria, at yearly, two-yearly or four-yearly intervals							
1977	1529	215	14.0%	1120	73.2%	1328	87.0%
1978	1701	251	14.7%	1289	75.7%	1391	81.7%
1979	1593	234	14.7%	1270	79.8%	1376	86.4%
1980	1581	168	10.6%	1302	82.2%	1437	90.8%
1981	1543	127	8.1%	1210	78.4%	1340	86.7%
1982	1695	332	19.4%	1382	81.4%	1493	88.0%
1983	1737	236	13.5%	1388	79.9%	1558	89.6%
1984	1669	189	11.3%	1286	77.0%	1412	84.6%
1985	1666	189	11.3%	1312	78.7%	1471	88.2%
1986	1752	207	11.8%	1388	79.2%	1529	87.3%
1987	1793	171	9.5%	1408	78.4%	1542	86.0%
1988	1636	149	9.0%	1230	75.9%	1384	84.4%
1989	1719	196	11.4%	1256	73.0%	1409	81.9%
1990	1958	192	9.8%	1409	71.9%	1639	83.7%
1991	2010	271	13.4%	1411	69.9%	1544	76.8%
1992	1824	313	17.1%	1194	65.4%	1384	75.8%
1993	1906	471	24.7%	1233	64.6%	1473	77.2%
1994	2290	370	16.1%	1573	68.7%	1879	82.0%
As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995							
1995	1252	479	38.2%	824	65.8%	988	78.9%
As a result of a decision by the Governing Body (November 1993), reports were requested, according to certain criteria, at yearly, two-yearly or five-yearly intervals							
1996	1806	362	20.5%	1145	63.3%	1413	78.2%
1997	1927	553	28.7%	1211	62.8%	1438	74.6%
1998	2036	463	22.7%	1264	62.1%	1455	71.4%
1999	2288	520	22.7%	1406	61.4%	1641	71.7%
2000	2550	740	29.0%	1798	70.5%	1952	76.6%
2001	2313	598	25.9%	1513	65.4%	1672	72.2%
2002	2368	600	25.3%	1529	64.5%	1701	71.8%
2003	2344	568	24.2%	1544	65.9%	1701	72.6%
2004	2569	659	25.6%	1645	64.0%	1852	72.1%
2005	2638	696	26.4%	1820	69.0%	2065	78.3%
2006	2586	745	28.8%	1719	66.5%	1949	75.4%
2007	2478	845	34.1%	1611	65.0%	1812	73.2%
2008	2515	811	32.2%	1768	70.2%	1962	78.0%
2009	2733	682	24.9%	1853	67.8%	2120	77.6%
2010	2745	861	31.4%	1866	67.9%	2122	77.3%
2011	2735	960	35.1%	1855	67.8%	2117	77.4%

Year of the session of the Committee of Experts	Reports requested	Reports received at the date requested		Reports registered for the session of the Committee of Experts		Reports registered for the session of the Conference	
As a result of a decision by the Governing Body (November 2009 and March 2011), reports are requested, according to certain criteria, at yearly, three-yearly or five-yearly intervals							
2012	2207	809	36.7%	1497	67.8%	1742	78.9%
2013	2176	740	34.1%	1578	72.5%	1755	80.6%
2014	2251	875	38.9%	1597	70.9%	1739	77.2%
2015	2139	829	38.8%	1482	69.3%	1617	75.6%
2016	2303	902	39.2%	1600	69.5%	1781	77.3%
2017	2083	785	37.7%	1386	66.5%	1543	74.1%
2018	1683	571	33.9%	1038	61.7%		

Appendix III. List of observations made by employers' and workers' organizations

Algeria

	on Conventions Nos
• Autonomous National Union of Electricity Workers and Gas (SNATEGS)	87, 98, 135
• General and Autonomous Confederation of Workers in Algeria (CGATA)	87
• General Confederation of Algerian Enterprises (CGEA)	100, 142
• General Confederation of Employers (CGP)	100, 142
• International Trade Union Confederation (ITUC)	87, 98
• National Autonomous Union of Public Administration Personnel (SNAPAP)	100
• National Union of Energy Workers (SNT ENERGIE)	87, 135
• National Union of Industrial Workers (SNSI)	87, 135
• Trade Union Confederation of Productive Workers (COSYFOP)	87, 135

Antigua and Barbuda

• Antigua and Barbuda Public Service Association (ABPSA)	on Convention No. 87

Argentina

	on Conventions Nos
• Association of State Workers (ATE)	169
• Confederation of Workers of Argentina (CTA Autonomous)	87, 100, 111, 189
• Confederation of Workers of Argentina (CTA Workers)	81, 87, 98, 100, 102, 111, 129, 151, 154, 169, 177, 188, 189
• General Confederation of Labour of the Argentine Republic (CGT RA)	81, 87, 100, 102, 111, 129, 142, 169, 177, 188, 189
• International Trade Union Confederation (ITUC)	87, 102
• International Transport Workers' Federation (ITF)	87
• Trade Union Confederation of Judicial Workers of the Argentine Republic (FE-SITRAJU)	154

Armenia

• Confederation of Trade Unions of Armenia (CTUA)	on Conventions Nos 81, 100, 111, 174, 176
• Republican Union of Employers of Armenia (RUEA)	81, 100, 111, 174, 176

Australia

• Australian Council of Trade Unions (ACTU)	on Conventions Nos 81, 100, 111, 142

Austria

• Austrian Chamber of Labour (AK)	on Conventions Nos 81, 100, 111, 142, 172
• Federal Chamber of Labour (BAK)	81, 100, 111, 142, 172

Bahrain

• General Federation of Bahrain Trade Unions (GFBTU)	on Conventions Nos 111
• International Trade Union Confederation (ITUC)	111

Bangladesh

• International Trade Union Confederation (ITUC)	on Convention No. 81

Belarus

• Belarusian Congress of Democratic Trade Unions (BKDP)	on Conventions Nos 29, 87, 105, 111
• International Trade Union Confederation (ITUC)	29, 87

Belgium

• International Trade Union Confederation (ITUC)	on Convention No. 111

Belize

• Belize Chamber of Commerce & Industry (BCCI)	on Conventions Nos MLC, 2006
• National Trade Union Congress of Belize	MLC, 2006

Bolivia, Plurinational State of

- Confederation of Private Employers of Bolivia (CEPB); International Organisation of Employers (IOE)
- National Federation of Salaried Domestic Workers of Bolivia (FENATRAHOB)

on Conventions Nos
26, 122, 131, 138
189

Botswana

- Botswana Federation of Trade Unions (BFTU)

on Conventions Nos
19, 87, 98, 100, 111, 182

Brazil

- International Trade Union Confederation (ITUC)
- National Association of Labour Court Judges (ANAMATRA)
- National Confederation of Industry (CNI); International Organisation of Employers (IOE)
- Single Confederation of Workers (CUT); International Trade Union Confederation (ITUC)

on Conventions Nos
98
95, 98, 122, 144, 154, 155
81, 98, 100, 111, 117, 142, 169
98, 154

Bulgaria

- Confederation of Independent Trade Unions in Bulgaria (CITUB)
- Trade Union of Self-Employed and Informal Workers "Unity"

on Conventions Nos
81, 100, 111, 177
177

Burundi

- Trade Union Confederation of Burundi (COSYBU)

on Conventions Nos
26, 29, 81, 87, 98, 100, 105, 111, 135,
138, 144

Cambodia

- International Trade Union Confederation (ITUC)

on Convention No.
105

Cameroon

- Cameroon National Seafarers Union (SYNIMAC)
- General Union of Workers of Cameroon (UGTC)
- International Transport Workers' Federation (ITF)

on Conventions Nos
81, 87, 100, 111, 122
81, 87, 100, 111, 122
87

Canada

- Canadian Employers Council (CEC)
- Canadian Labour Congress (CLC)
- Confederation of National Trade Unions (CSN)

on Conventions Nos
100, 111, 138
100, 111, 138
100, 111

Chile

- College of Teachers of Chile A.G.
- National Association of Fiscal Employees (ANEF)
- Single Central Organization of Workers of Chile (CUT-Chile)

on Conventions Nos
35, 37
100
100, 111, 140, 169, 189

Colombia

- Colombian Union of Air Traffic Controllers (SCTA)
- General Confederation of Labour (CGT)
- National Employers Association of Colombia (ANDI); International Organisation of Employers (IOE)
- Single Confederation of Workers of Colombia (CUT); Confederation of Workers of Colombia (CTC)
- Single Confederation of Workers of Colombia (CUT); General Confederation of Labour (CGT); Confederation of Workers of Colombia (CTC)
- Single Confederation of Workers of Colombia (CUT); Teachers' Association of Cundinamarca (ADEC); Colombian Federation of Education Workers (FECODE)

on Conventions Nos
111
81, 99, 129
26, 81, 95, 99, 100, 111, 129, 162, 169,
189
26, 81, 99, 100, 111, 129, 136, 169,
170, 174, 189
95, 162
95, 151, 154, 169

Comoros

- Workers Confederation of Comoros (CTTC)

on Conventions Nos
12, 14, 17, 42, 52, 98, 144

Costa Rica

- Costa Rican Confederation of Democratic Workers (CCTD)
- Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP); International Organisation of Employers (IOE)
- Trade Union Centre Juanito Mora Porras (CSJMP); Costa Rican Workers' Movement Confederation (CMTC); Confederation of Workers Rerum Novarum (CTRN)

on Conventions Nos

81, 100, 117

81, 100, 111, 129, 169, 189

81, 100, 111, 129, 144, 169

Croatia

- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 98

Cuba

- Asociación Sindical Independiente de Cuba (ASIC)

on Conventions Nos

81, 110, 111

Czech Republic

- Confederation of Industry and Transport (SP ČR)

on Convention No.

100

Denmark

- Confederation of Danish Employers (DA)
- Danish Confederation of Trade Unions (LO)
- Danish Confederation of Trade Unions (LO); Salaried Employees and Civil Servants Confederation (FTF)
- National Association of Local Authorities in Denmark (KL)

on Conventions Nos

100, 111

111

100

100, 111

Denmark (Greenland)

- Association of Fishers and Hunters in Greenland (KNAPK)
- Confederation of Graduates in Greenland (IK/ASG)
- Greenland Organization for Public Employees (AK)
- Sulinermik Inuussutissarsiateqartut Kattufiat (SIK)
- Teacher's Trade Union of Greenland (IMAK)

on Conventions Nos

169

169

98, 169

98

98, 169

Dominican Republic

- Autonomous Confederation of Workers' Unions (CASC); National Confederation of Dominican Workers (CNTD); National Confederation of Trade Union Unity (CNUS)

on Conventions Nos

81, 87, 98, 100, 111, 183, 189

Ecuador

- Association of Paid Household Workers (ATRH)
- Public Services International (PSI) in Ecuador; National Federation of Education Workers (UNE)

on Conventions Nos

189

98

Egypt

- Egyptian Democratic Labour Congress (EDLC)
- General Union of Transport Workers and Services (GUTWS)
- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF)
- Real Estate Tax Authority Union; Union Committee for Transportation Services in Qalyoubia ; Union Committee of Damietta Fishers; Union Committee of Workers in Suez Canal Clubs ; Union of Workers in Telecom Egypt; Union of Workers in the Bibliotheca Alexandria
- Trade Union Organization of Transport Workers (TUWC)

on Conventions Nos

87

87

87, 98

87

87

87

El Salvador

- National Business Association (ANEP); International Organisation of Employers (IOE)
- National Confederation of Salvadoran Workers (CNTS)

on Conventions Nos

87, 98, 144

87, 98, 135, 144, 151

Eritrea

- International Organisation of Employers (IOE)

on Conventions Nos

29, 105

Eswatini

- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98

Fiji

- Fiji Trades Union Congress (FTUC)

on Conventions Nos
87, 98

Finland

- Central Organization of Finnish Trade Unions (SAK); Finnish Confederation of Professionals (STTK); Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)
- Commission for Local Authority Employers (KT)
- Confederation of Finnish Industries (EK)
- Federation of Finnish Entreprises

on Conventions Nos
81, 100, 111, 140, 142, 149

100
81
81, 100, 111

France

- French Confederation of Christian Workers (CFTC); French Democratic Confederation of Labour (CFDT); French Confederation of Management – General Confederation of Professional and Managerial Employees (CFE-CGC)

on Convention No.
185

Georgia

- Georgian Trade Unions Confederation (GTUC)
- International Trade Union Confederation (ITUC)

on Conventions Nos
29, 87, 98, 100, 105, 111, 138, 182
100

Germany

- Confederation of German Employers' Associations (BDA)
- International Organisation of Employers (IOE)

on Conventions Nos
29, 105, 138, 140, 142, 172, 182, 189
29, 105, 138, 140, 142, 172, 182, 189

Greece

- Greek General Confederation of Labour (GSEE)
- Hellenic Federation of Enterprises and Industries (SEV); International Organisation of Employers (IOE)

on Conventions Nos
29, 87, 98, 154
98, 144

- Hellenic Military Medical Corps Association (ESTIA)

29

Guatemala

- Autonomous Popular Trade Union Movement; Global Unions of Guatemala
- Guatemalan Union, Indigenous and Peasant Movement (MSICG)
- International Organisation of Employers (IOE); Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 169
169
87, 110, 138, 169, 182
87, 98

Haiti

- Association of Haitian Industries (ADIH)
- Confederation of Public and Private Sector Workers (CTSP)
- International Trade Union Confederation (ITUC)
- Trade Union Federation of Haiti (CSH)

on Conventions Nos
1, 14, 17, 24, 30, 87, 98, 100, 105, 106, 111, 138, 182
1, 12, 14, 17, 19, 24, 25, 29, 30, 42, 45, 77, 78, 81, 87, 90, 98, 100, 105, 106, 107, 111, 138, 182
1, 14, 30, 87, 98, 106
29, 87, 98, 100, 105, 111, 138, 182

Honduras

- Honduran National Business Council (COHEP); International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos
14, 29, 105, 106, 138, 144, 169, 182, MLC, 2006
87, 98

India

- Centre of Indian Trade Unions (CITU)
- Food Corporation of India Handling-Workers' Union (FCIHWU)
- International Trade Union Confederation (ITUC)

on Conventions Nos
81
100, 122
29

Ireland

- International Transport Workers' Federation (ITF)
- Irish Business and Employers Confederation (IBEC)
- Irish Congress of Trade Unions (ICTU)

on Conventions Nos
29
87
81, 87, 98, 144, 172

Italy

- Italian Union of Labour (UIL)

on Convention No.
97

Japan

- All-Japan Shipbuilding Trade Union Kanto Region
- Confederation of Workers of Peru (CTP)
- Federation of Korean Trade Unions (FKTU); Korean Confederation of Trade Unions (KCTU)
- Japan Business Federation (NIPPON KEIDANREN)
- Japanese Trade Union Confederation (JTUC-RENGO)
- National Confederation of Trade Unions (ZENROREN)
- National Union of Welfare and Childcare Workers (NUWCW)

on Conventions Nos
29
87, 98
29
29, 144
29, 87, 138, 144
87
159

Kazakhstan

- Confederation of Employers of Republic of Kazakhstan (KRRK)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87
29, 87, 98, 105, 182

Korea, Republic of

- Federation of Korean Trade Unions (FKTU)
- Korean Confederation of Trade Unions (KCTU)

on Conventions Nos
138, 142, 182
19, 138, 142, 182, 185

Kyrgyzstan

- Kyrgyzstan Federation of Trade Unions (KFTU)

on Conventions Nos
138, 182

Latvia

- Free Trade Union Confederation of Latvia (FTUCL)

on Conventions Nos
29, 138, 142

Lebanon

- International Trade Union Confederation (ITUC)

on Convention No.
29

Lithuania

- Lithuanian Seafarers' Union (LSU)

on Convention No.
MLC, 2006

Madagascar

- Sendika Kristianina Malagasy (SEKRIMA)

on Convention No.
124

Malaysia

- International Trade Union Confederation (ITUC)

on Conventions Nos
98, 131

Malaysia - Peninsular

- International Trade Union Confederation (ITUC)

on Convention No.
19

Malaysia - Sarawak

- International Trade Union Confederation (ITUC)

on Convention No.
19

Mauritania

- General Confederation of Workers of Mauritania (CGTM)
- International Trade Union Confederation (ITUC)

on Conventions Nos
29, 100, 105, 138, 182
29

Mexico

- Confederation of Employers of the Mexican Republic (COPARMEX)
- Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN)
- IndustriALL Global Union (IndustriALL)
- International Trade Union Confederation (ITUC)
- Union of Workers of the National Autonomous University of Mexico (STUNAM); National Union of Workers (UNT)

on Conventions Nos
29, 87, 169
87
87
87
87

Moldova, Republic of

- International Trade Union Confederation (ITUC)
- National Confederation of Trade Unions of Moldova (CNSM)

on Conventions Nos
81, 129
81, 87, 98, 129

Myanmar

- International Trade Union Confederation (ITUC)

on Convention No.
87

Nepal

- International Trade Union Confederation (ITUC)

on Convention No.
29

Netherlands

- National Federation of Christian Trade Unions (CNV)
- National Federation of Christian Trade Unions (CNV); Netherlands Trade Union Confederation (FNV)
- National Federation of Christian Trade Unions (CNV); Netherlands Trade Union Confederation (FNV); Trade Union Federation for Professionals (VCP)

on Conventions Nos
29
29, 105
138, 140, 142, 144, 177

New Zealand

- Business New Zealand
- New Zealand Council of Trade Unions (NZCTU)

on Conventions Nos
29, 105, 144, 182
29, 105, 144, 182

New Zealand (Tokelau)

- Business New Zealand
- New Zealand Council of Trade Unions (NZCTU)

on Conventions Nos
29, 82, 105
29, 82, 105

Niger

- Confederation of Labour of the Niger (CNT)

on Conventions Nos
29, 105, 117, 138, 142, 182

Nigeria

- International Trade Union Confederation (ITUC)

on Convention No.
98

Norway

- Norwegian Union of Marine Engineers (NUME)

on Convention No.
188

Pakistan

- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98

Panama

- International Transport Workers' Federation (ITF)
- National Confederation of United Independent Unions (CONUSI)

on Conventions Nos
87, 98
87, 98, 110, 117, 122

Paraguay

- Central Confederation of Workers Authentic (CUT-A)
; Union of United Workers' ESSAP (SITUE)

on Conventions Nos
87, 98

Peru

- Autonomous Workers' Confederation of Peru (CATP)
- General Confederation of Workers of Peru (CGTP)

on Conventions Nos
87, 98, 122, 159, 169, 183
169

Philippines

- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98

Poland

- All-Poland Trade Unions Alliance (OPZZ)
- Independent and Self-Governing Trade Union "Solidarnosc"
- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98, 122, 149
87, 98, 122, 140, 142
87, 98

Portugal

- Confederation of Portuguese Industry (CIP)
- General Confederation of Portuguese Workers - National Trade Unions (CGTP-IN)

on Conventions Nos
87, 98, 117, 122, 142
87, 98, 122

Romania

- Block of National Trade Unions (BNS); Confederation of Democratic Trade Unions of Romania (CSDR); National Trade Union Confederation (CNS 'CARTEL ALFA')
- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98

Russian Federation

- Confederation of Labour of Russia (KTR)

on Conventions Nos
87, 98, 122

Rwanda

- Congress of Labour and Brotherhood of Rwanda (COTRAF-RWANDA)

on Conventions Nos
17, 26, 94, 100, 111, 123

Senegal

- International Trade Union Confederation (ITUC)
- National Federation of Independent Trade Unions of Senegal (UNSAS)

on Conventions Nos
87, 98
87, 117

Serbia

- Confederation of Autonomous Trade Unions of Serbia (CATUS)
- International Trade Union Confederation (ITUC)
- Serbian Association of Employers (SAE)
- Trade Union Confederation 'Nezavisnost'

on Conventions Nos
87, 94, 98, 122, 140, 142
87, 98
87
87, 98, 122, 140

Slovenia

- Association of Free Trade Unions of Slovenia (AFTUS)

on Conventions Nos
87, 122

Somalia

- Federation of Somali Trade Unions (FESTU)

on Conventions Nos
87, 98, 111, 182

Spain

- General Union of Workers (UGT)
- International Trade Union Confederation (ITUC)
- Spanish Confederation of Employers' Organizations (CEOE)
- Trade Union Confederation of Workers' Commissions (CCOO)

on Conventions Nos
87, 98, 117, 122, 140, 142, 169, 172, 185
87, 98
87, 98, 117, 122, 140, 142, 169, 172
87, 98, 117, 122, 140, 142, 169, 172, 185

Sri Lanka

- Ceylon Bank Employees' Union (CBEU); Ceylon Estates Staffs' Union (CESU); Ceylon Federation of Labour (CFL); Ceylon Mercantile Industrial & General Workers Union (CMU)
- Free Trade Zones and General Services Employees Union (FTZ & GSEU)
- International Trade Union Confederation (ITUC)

on Conventions Nos
81

87, 98
87, 98

Sweden

- Swedish Trade Union Confederation (LO)

on Convention No.
121

Switzerland

- Swiss Union of Agricultural Workers (USP)
- Union of Swiss Employers (UPS)

on Conventions Nos
189
189

Tunisia

- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 98

Turkey

- Association of Turkish Shipowners (TAS)
- Confederation of Progressive Trade Unions of Turkey (DISK)
- Confederation of Public Employees' Trade Unions (KESK)
- Confederation of Turkish Trade Unions (TÜRK-İS)
- Education and Science Workers' Union of Turkey (EGİTİM SEN); Education International (EI)
- International Trade Union Confederation (ITUC)
- Turkish Confederation of Employers' Associations (TİSK)
- Turkish Confederation of Employers' Associations (TİSK); International Organisation of Employers (IOE)

on Conventions Nos
55, 68, 69, 92, 133, 134, 146, 164, 166
87, 98
87, 98
55, 68, 69, 73, 87, 92, 98, 108, 122,
134, 146, 164, 166, 167, 176
87, 98
87, 98, 135
87, 98, 122, 142
87, 98, 122, 142

Turkmenistan

- International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

on Conventions Nos
87, 98

Ukraine

- Confederation of Free Trade Unions of Ukraine (KVPU)
- Federation of Trade Unions of Ukraine (FPU)
- International Trade Union Confederation (ITUC)

on Conventions Nos
87, 95, 98
87, 98
87, 98

United Kingdom

- Trades Union Congress (TUC)

on Conventions Nos
87, 98

United Kingdom (Cayman Islands)

- Trades Union Congress (TUC)

on Convention No.
MLC, 2006

Uruguay

- National Chamber of Commerce and Services of Uruguay (CNCS); Chamber of Industries of Uruguay (CIU); International Organisation of Employers (IOE)

on Conventions Nos
87, 98, 131, 135, 144, 154

Uzbekistan

- International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

on Convention No.
87

Venezuela, Bolivarian Republic of

- General Confederation of Labour (CGT); Confederation of Autonomous Trade Unions (CODESA); Confederation of Workers of Venezuela (CTV); National Union of Workers of Venezuela (UNETE)
- Independent Trade Union Alliance Confederation of Workers (CTASI)
- International Organisation of Employers (IOE); Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS)

on Conventions Nos
87, 98, 117, 122, 140, 142, 149, 169
87, 95, 98, 117, 122, 144, 149, 169
26, 87, 88, 122, 144, 158

Zimbabwe

- International Trade Union Confederation (ITUC)
- Zimbabwe Congress of Trade Unions (ZCTU)
- Zimbabwe Teachers' Association (ZIMTA); Education International (EI)

on Conventions Nos
87, 98
87, 98
87, 98

Appendix IV. Summary of information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities

Article 19 of the Constitution of the International Labour Organisation prescribes, in paragraphs 5, 6 and 7 that Members shall bring the Conventions, Recommendations and Protocols adopted by the International Labour Conference before the competent authorities within a specific time period. Under the same provisions, the governments of member States shall inform the Director-General of the International Labour Office of the measures taken to submit the instruments to the competent authorities, and also communicate particulars of the authority or authorities.

In accordance with article 23 of the Constitution, a summary of the information communicated by member States in accordance with article 19 is submitted to the Conference.

At its 267th Session (November 1996), the Governing Body approved new measures to rationalize and simplify proceedings. As a result, the summarized information is presented in an appendix to the report of the Committee of Experts on the Application of Conventions and Recommendations.

The following summary contains the most recent information on the submission to the competent authorities of the Protocol of 2014 to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), adopted at the 103rd Session of the Conference (June 2014), the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), adopted at the 104th Session of the Conference (June 2015), as well as the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session (June 2017).

The summarized information includes communications that were forwarded to the Director-General of the International Labour Office after the closure of the 107th Session of the Conference (June 2018) and which could not therefore be laid before the Conference at that session.

Australia. Recommendation No. 205 was submitted to Parliament on 14 June 2018.

Bangladesh. The 2014 Protocol, Recommendations Nos 203, 204 and 205 were submitted to the Parliamentary Standing Committee to the Ministry of Labour and Employment on 18 February 2018.

Belarus. Recommendation No. 204 was submitted to the National Assembly on 14 February 2018.

Belgium. Recommendation No. 205 was submitted to Parliament on 27 September 2018.

Burundi. The 2014 Protocol, Recommendations Nos 203, 204 and 205 were submitted to the National Assembly on 24 May 2018.

Cabo Verde. The 2014 Protocol, Recommendations Nos 203, 204 and 205 were submitted to the National Assembly on 6 November 2017.

Cuba. Recommendation No. 205 was submitted to the Council of State on 28 May 2018.

Cyprus. Recommendation No. 205 was submitted to the House of Representatives on 28 February 2018.

Czech Republic. Recommendation No. 205 was submitted to the Senate of the Parliament on 17 May 2018 and to the Chamber of Deputies of the Parliament on 18 May 2018.

Denmark. Recommendations Nos 203 and 205 were submitted to the Danish Parliament on 9 October 2014 and 7 October 2015, respectively.

Estonia. Recommendation No. 205 was submitted to the Estonian Parliament (Riigikogu) on 9 January 2018.

Finland. Recommendation No. 205 was submitted to Parliament on 18 December 2017.

Iceland. Recommendation No. 205 was submitted to the Parliament (Althing) on 20 March 2018.

India. Recommendation No. 205 was submitted to both Houses of Parliament: the Lok Sabha on 19 March 2018 and the Rajya Sabha on 21 March 2018.

Indonesia. Recommendation No. 205 was submitted to the House of People Representatives on 25 May 2018.

Japan. Recommendation No. 205 was submitted to the Diet on 25 May 2018.

Latvia. Recommendation No. 205 was submitted to Parliament on 30 July 2018.

Lithuania. Recommendation No. 205 was submitted to the Parliament (Seimas) on 24 January 2018.

Mali. Recommendations Nos 204 and 205 were submitted to the National Assembly on 19 April 2018.

Montenegro. Recommendation No. 205 was submitted to Parliament on 24 January 2018.

Morocco. Recommendation No. 205 was submitted to both chambers of Parliament on 3 October 2017.

Myanmar. Recommendation No. 205 was submitted to Parliament (Pyidaungsu Hluttaw) on 18 May 2018.

Namibia. The 2014 Protocol was submitted to Parliament and subsequently ratified on 6 November 2017. In addition, Recommendation No. 204 was submitted to Parliament on 12 October 2016.

Netherlands. Recommendation No. 205 was submitted to Parliament on 11 June 2018.

Niger. Recommendation No. 205 was submitted to the National Assembly on 27 March 2018.

Panama. Recommendation No. 205 was submitted to the National Assembly on 7 May 2018.

Paraguay. Recommendation No. 203 was submitted to the National Congress on 29 July 2016.

Philippines. Recommendation No. 205 was submitted to the Senate and House of Representatives on 4 October 2018.

Poland. Recommendation No. 205 was submitted to the Sejm on 30 May 2018.

Serbia. Recommendation No. 205 was submitted to the National Assembly on 5 March 2018.

Slovakia. Recommendation No. 205 was submitted to the session of Government of the Slovak Republic on 22 November 2017.

Switzerland. Recommendation No. 205 was submitted to the Federal Council on 4 July 2018.

United Republic of Tanzania. The 2014 Protocol to the Forced Labour Convention, 1930 and Recommendations Nos 203, 204 and 205 were submitted to Parliament on 5 October 2017.

Tunisia. The 2014 Protocol to the Forced Labour Convention, 1930 and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203) were submitted to the People's Assembly on 17 July 2017.

Turkey. Recommendation No. 205 was submitted to the Grand National Assembly on 16 December 2017.

Uruguay. Recommendations Nos 203 and 204 were submitted to the General Assembly on 31 July 2017.

Uzbekistan. Recommendation No. 205 was submitted to Parliament (Oliy Majlis) on 7 June 2018.

**Appendix V. Information supplied by governments with regard to
the obligation to submit Conventions and Recommendations
to the competent authorities**

(31st to 107th Sessions of the International Labour Conference, 1948–2018)

Note. The number of the Convention or Recommendation is given in parentheses, preceded by the letter “C” or “R” as the case may be, when only some of the texts adopted at any one session have been submitted.

The Protocols are indicated by the letter “P” followed by the number of the corresponding Convention.

When the ratification of a Convention was registered, that Convention and the corresponding Recommendation are considered as submitted.

Account has been taken of the date of admission or readmission of member States to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972), 73rd Session (June 1987), 93rd Session (June 2005), 97th Session (June 2008), 98th Session (June 2009), 102nd Session (June 2013), 105th Session (June 2016) and 107th Session (June 2018).

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan	31-56, 58-72, 74-92, 94, 95	96, 99-101, 103, 104, 106
Albania	79-81, 82 (C176, R183), 83, 84 (C178, P147, R186), 85, 87, 88, 90 (P155), 91, 94, 95 (C187, R197)	78, 82 (P081), 84 (C179, C180, R185, R187), 86, 89, 90 (R193, R194), 92, 95 (R198), 96, 99-101, 103, 104, 106
Algeria	47-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106
Angola	61-72, 74-78, 79 (C173), 80, 81, 82 (R183, C176), 83-85, 87-90, 96	79 (R180), 82 (P081), 86, 91, 92, 94, 95, 99-101, 103, 104, 106
Antigua and Barbuda	68-72, 74-82, 84, 87, 94, 100	83, 85, 86, 88-92, 95, 96, 99, 101, 103, 104, 106
Argentina	31-56, 58-72, 74-90, 92, 94-96, 99-101, 103	91, 104, 106
Armenia	80-92, 94-96, 99-101	103, 104, 106
Australia	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Austria	31-56, 58-72, 74-92, 94-96, 99	100, 101, 103, 104, 106
Azerbaijan	79 (C173), 80-82, 85-88, 91, 92	79 (R180), 83, 84, 89, 90, 94-96, 99-101, 103, 104, 106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Bahamas	61-72, 74-84, 87, 91, 94	85, 86, 88-90, 92, 95, 96, 99-101, 103, 104, 106
Bahrain	63-72, 74-87	88-92, 94-96, 99-101, 103, 104, 106
Bangladesh	58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Barbados	51-56, 58-72, 74-92, 94-96, 99	100, 101, 103, 104, 106
Belarus	37-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Belgium	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Belize	68-72, 74-76, 84, 87, 88, 94	77-83, 85, 86, 89-92, 95, 96, 99-101, 103, 104, 106
Benin	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Bolivia, Plurinational State of	31-56, 58-72, 74-79, 80 (C174), 81 (C175), 82 (C176), 83 (C177), 84 (C178, C179, C180), 85 (C181), 87, 88 (C183), 89 (C184), 91, 100	80 (R181), 81 (R182), 82 (P081, R183), 83 (R184), 84 (P147, R185, R186, R187), 85 (R188), 86, 88 (R191), 89 (R192), 90, 92, 94-96, 99, 101, 103, 104, 106
Bosnia and Herzegovina	80-92, 94-96, 99-101, 103, 104	106
Botswana	64-72, 74-92, 94-96, 99, 100	101, 103, 104, 106
Brazil	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Brunei Darussalam		96, 99-101, 103, 104, 106
Bulgaria	31-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Burkina Faso	45-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106
Burundi	47-56, 58-72, 74-92, 95, 96, 99-101, 103, 104, 106	94
Cabo Verde	65-72, 74-92, 94-96, 99-101, 103, 104, 106	
Cambodia	53-56, 58-72, 74-92, 94-96, 99-101, 103 (R203), 104	103 (P029), 106
Cameroon	44-56, 58-72, 74-92, 94-96, 101	99, 100, 103, 104, 106
Canada	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Central African Republic	45-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106
Chad	45-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106
Chile	31-56, 58-72, 74-82, 87, 94, 95 (C187, R197), 100	83-86, 88-92, 95 (R198), 96, 99, 101, 103, 104, 106
China	31-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106
Colombia	31-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106
Comoros	65-72, 74-78, 87	79-86, 88-92, 94-96, 99-101, 103, 104, 106
Congo	45-53, 54 (C131, C132), 55, 56, 58 (C138, R146), 59, 60 (C142, R150), 61, 62, 63 (C148, C149, R157), 64-66, 67 (C154, C155, C156), 68 (C158), 71 (C160, C161), 74, 75 (C167, C168), 76, 84, 87, 91, 94, 96	54 (R135, R136), 58 (C137, R145), 60 (C141, C143, R149, R151), 63 (R156), 67 (R163, R164, R165), 68 (C157, P110, R166), 69, 70, 71 (R170, R171), 72, 75 (R175, R176), 77-83, 85, 86, 88-90, 92, 95, 99-101, 103, 104, 106
Cook Islands		104, 106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Costa Rica	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104, 106	103 (R203)
Côte d'Ivoire	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Croatia	80-85, 87, 91, 94	86, 88-90, 92, 95, 96, 99-101, 103, 104, 106
Cuba	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Cyprus	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Czech Republic	80-92, 94-96, 99-101, 103, 104	106
Democratic Republic of the Congo	45-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106
Denmark	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Djibouti	64-72, 74-92, 94-96, 99-101, 103, 104	106
Dominica	68-72, 74-79, 87	80-86, 88-92, 94-96, 99-101, 103, 104, 106
Dominican Republic	31-56, 58-72, 74-92, 94, 95, 99, 100	96, 101, 103, 104, 106
Ecuador	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104	103 (R203), 106
Egypt	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
El Salvador	31-56, 58-61, 63 (C149), 64, 67 (R164, R165, C155, C156), 69 (R168, C159), 71, 72, 74-81, 87, 90 (P155)	62, 63 (R156, R157, C148), 65, 66, 67 (R163, C154), 68, 69 (R167), 70, 82-86, 88, 89, 90 (R193, R194), 91, 92, 94-96, 99-101, 103, 104, 106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Equatorial Guinea	67-72, 74-79, 84, 87	80-83, 85, 86, 88-92, 94-96, 99-101, 103, 104, 106
Eritrea	80-92, 94-96, 99-101	103, 104, 106
Estonia	79-92, 94-96, 99-101, 103, 104, 106	
Eswatini	60-72, 74-92, 94-96	99-101, 103, 104, 106
Ethiopia	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Fiji	59-72, 74-82, 84, 85, 87, 89, 92, 94	83, 86, 88, 90, 91, 95, 96, 99-101, 103, 104, 106
Finland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
France	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Gabon	45-56, 58-72, 74-81, 82 (C176), 83 (C177), 84, 85 (C181), 87, 89 (C184), 91, 94	82 (P081, R183), 83 (R184), 85 (R188), 86, 88, 89 (R192), 90, 92, 95, 96, 99-101, 103, 104, 106
Gambia	82-92, 94-96	99-101, 103, 104, 106
Georgia	80-92, 94-96, 99-101	103, 104, 106
Germany	34-56, 58-72, 74-76, 77 (C170, R177), 78-92, 94-96, 99-101, 104	77 (C171, P089, R178), 103, 106
Ghana	40-56, 58-72, 74-92, 94-96, 99-101, 104	103, 106
Greece	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Grenada	66-72, 74-92, 94, 95	96, 99-101, 103, 104, 106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Guatemala	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Guinea	43-56, 58-72, 74-83, 87, 95 (R197, C187), 100	84-86, 88-92, 94, 95 (R198), 96, 99, 101, 103, 104, 106
Guinea - Bissau	63-72, 74-88, 94	89-92, 95, 96, 99-101, 103, 104, 106
Guyana	50-56, 58-72, 74-92, 94, 95, 100	96, 99, 101, 103, 104, 106
Haiti	31-56, 58-66, 67 (C156, R165), 69-72, 74, 75 (C167), 87	67 (C154, C155, R163, R164), 68, 75 (C168, R175, R176), 76-86, 88-92, 94-96, 99-101, 103, 104, 106
Honduras	38-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Hungary	31-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106
Iceland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
India	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Indonesia	33-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Iran, Islamic Republic of	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 94-96	90 (P155), 99-101, 103, 104, 106
Iraq	31-56, 58-72, 74-87, 88 (C183), 89, 90 (P155), 91, 94, 95 (C187, R197), 96 (C188), 100 (C189)	88 (R191), 90 (R193, R194), 92, 95 (R198), 96 (R199), 99, 100 (R201), 101, 103, 104, 106
Ireland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Israel	32-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Italy	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Jamaica	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Japan	35-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Jordan	39-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106
Kazakhstan	82 (C176, R183), 87, 88, 91	80, 81, 82 (P081), 83-86, 89, 90, 92, 94-96, 99-101, 103, 104, 106
Kenya	48-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106
Kiribati	91, 94	88-90, 92, 95, 96, 99-101, 103, 104, 106
Korea, Republic of	79-92, 94-96, 99-101, 103, 104, 106	
Kuwait	45-56, 58-72, 74-76, 78, 79, 80 (C174), 81-85, 87, 88, 90, 91	77, 80 (R181), 86, 89, 92, 94-96, 99-101, 103, 104, 106
Kyrgyzstan	87, 89	79-86, 88, 90-92, 94-96, 99-101, 103, 104, 106
Lao People's Democratic Republic	48-56, 58-72, 74-81, 82 (R183, C176), 83-92, 94-96, 99, 100, 103	82 (P081), 101, 104, 106
Latvia	79-92, 94-96, 99-101, 103, 104, 106	
Lebanon	32-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106
Lesotho	66-72, 74-92, 94-96	99-101, 103, 104, 106
Liberia	31-56, 58-72, 74-76, 77 (C170, C171, R177, R178), 78-81, 82 (C176, R183), 83-87, 91, 94	77 (P089), 82 (P081), 88-90, 92, 95, 96, 99-101, 103, 104, 106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Libya	35-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101, 103, 104, 106
Lithuania	79-92, 94-96, 99-101, 103, 104, 106	
Luxembourg	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Madagascar	45-56, 58-72, 74-91, 94-96, 100	92, 99, 101, 103, 104, 106
Malawi	49-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106
Malaysia	41-56, 58-72, 74-92, 94, 95 (C187, R197)	95 (R198), 96, 99-101, 103, 104, 106
Maldives, Republic of		99-101, 103, 104, 106
Mali	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Malta	49-56, 58-72, 74-92, 94, 95	96, 99-101, 103, 104, 106
Marshall Islands		99-101, 103, 104, 106
Mauritania	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Mauritius	53-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Mexico	31-56, 58-72, 74-92, 94, 95 (R198), 99, 101	95 (C187, R197), 96, 100, 103, 104, 106
Moldova, Republic of	79-91, 95 (C187, R197), 104	92, 94, 95 (R198), 96, 99-101, 103, 106
Mongolia	52-56, 58-72, 74-81, 82 (C176, R183), 83-92, 94-96, 99-101	82 (P081), 103, 104, 106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Montenegro	96, 99-101, 103, 104, 106	
Morocco	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Mozambique	61-72, 74-82, 87, 103 (P029), 104	83-86, 88-92, 94-96, 99-101, 103 (R203), 106
Myanmar	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Namibia	65-72, 74-92, 94-96, 99-101, 103 (P029), 104	103 (R203), 106
Nepal	51-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106
Netherlands	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
New Zealand	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Nicaragua	40-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106
Niger	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Nigeria	45-56, 58-72, 74-92, 94, 95, 100, 104	96, 99, 101, 103, 106
Norway	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Oman	81-92, 95 (R197, R198), 99	94, 95 (C187), 96, 100, 101, 103, 104, 106
Pakistan	31-56, 58-72, 74-80, 87, 91	81-86, 88-90, 92, 94-96, 99-101, 103, 104, 106
Palau		101, 103, 104, 106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Panama	31-56, 58-72, 74-87, 88 (R191), 89 (R192), 90 (R193, R194), 92, 94, 95 (R197, R198), 96 (R199), 99-101, 103, 104, 106	88 (C183), 89 (C184), 90 (P155), 91, 95 (C187), 96 (C188)
Papua New Guinea	61-72, 74-87	88-92, 94-96, 99-101, 103, 104, 106
Paraguay	40-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106
Peru	31-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106
Philippines	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Poland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Portugal	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Qatar	58-72, 74-92, 94-96, 99-101, 103, 104	106
Romania	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Russian Federation	37-56, 58-72, 74-88, 91, 94, 95 (C187, R197), 103, 104	89, 90, 92, 95 (R198), 96, 99-101, 106
Rwanda	47-56, 58-72, 74-79, 81, 85, 87, 95 (C187, R197)	80, 82-84, 86, 88-92, 94, 95 (R198), 96, 99-101, 103, 104, 106
Saint Kitts and Nevis	84, 87, 94	83, 85, 86, 88-92, 95, 96, 99-101, 103, 104, 106
Saint Lucia	67 (C154, R163), 68 (C158, R166), 87	66, 67 (C155, C156, R164, R165), 68 (C157, P110), 69-72, 74-86, 88-92, 94-96, 99-101, 103, 104, 106
Saint Vincent and the Grenadines	84, 86, 87, 94	82, 83, 85, 88-92, 95, 96, 99-101, 103, 104, 106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Samoa	94	95, 96, 99-101, 103, 104, 106
San Marino	68-72, 74-92, 94-96, 99-101	103, 104, 106
Sao Tome and Principe	68-72, 74-92, 94-96, 99-101	103, 104, 106
Saudi Arabia	61-72, 74-92, 94-96, 99-101	103, 104, 106
Senegal	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Serbia	89-92, 94-96, 99-101, 103, 106	104
Seychelles	63-72, 74-88, 94	89-92, 95, 96, 99-101, 103, 104, 106
Sierra Leone	45-56, 58-61, 62 (C145, C147, R153, R155)	62 (C146, R154), 63-72, 74-92, 94-96, 99-101, 103, 104, 106
Singapore	50-56, 58-72, 74-92, 94-96, 99-101, 104	103, 106
Slovakia	80-92, 94-96, 99-101, 103, 104, 106	
Slovenia	79-92, 94-96, 99-101, 103, 104, 106	
Solomon Islands	74, 87	70-72, 75-86, 88-92, 94-96, 99-101, 103, 104, 106
Somalia	45-56, 58-72, 74, 75, 87	76-86, 88-92, 94-96, 99-101, 103, 104, 106
South Africa	81, 82 (C176, R183), 83-92, 94-96, 99-101	103, 104, 106
South Sudan		101, 103, 104, 106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Spain	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Sri Lanka	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Sudan	39-56, 58-72, 74-80, 81 (R182), 82-92, 95, 96, 99-101, 103, 104	81 (C175), 94, 106
Suriname	61-72, 74-92, 94-96, 99-101, 103	104, 106
Sweden	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Switzerland	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Syrian Arab Republic	31-56, 58-65, 67, 68, 69 (C159, R167), 71, 72, 74-76, 77 (C170, R177), 84, 87-89, 90 (P155), 94	66, 69 (R168), 70, 77 (C171, P089, R178), 78-83, 85, 86, 90 (R193, R194), 91, 92, 95, 96, 99-101, 103, 104, 106
Tajikistan	81-92, 94-96, 99-101	103, 104, 106
Tanzania, United Republic of	46-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Thailand	31-56, 58-72, 74-92, 94-96, 99, 100 (R201), 101, 103, 104	100 (C189), 106
The former Yugoslav Republic of Macedonia	80-83, 85, 87, 88, 95 (C187, R197)	84, 86, 89-92, 94, 95 (R198), 96, 99-101, 103, 104, 106
Timor-Leste	92, 94-96	99-101, 103, 104, 106
Togo	44-56, 58-72, 74-90, 92, 94-96, 99-101, 103, 104, 106	91
Tonga		106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Trinidad and Tobago	47-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106
Tunisia	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Turkey	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	
Turkmenistan	81-92, 94-96, 99, 100	101, 103, 104, 106
Tuvalu		99-101, 103, 104, 106
Uganda	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
Ukraine	37-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
United Arab Emirates	58-72, 74-92, 95, 96	94, 99-101, 103, 104, 106
United Kingdom	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106
United States	66-72, 74-92, 94-96, 99-101, 103, 104	106
Uruguay	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 95 (R197, R198), 99-101, 103 (R203), 104	90 (P155), 94, 95 (C187), 96, 103 (P029), 106
Uzbekistan	80-92, 94-96, 99-101, 103, 106	104
Vanuatu		91, 92, 94-96, 99-101, 103, 104, 106
Venezuela, Bolivarian Republic of	41-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106
Viet Nam	79-92, 94-96, 99-101, 103, 104	106

	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Yemen	49-56, 58-72, 74-87, 88 (C183), 89 (C184), 91, 95 (C187)	88 (R191), 89 (R192), 90, 92, 94, 95 (R197, R198), 96, 99-101, 103, 104, 106
Zambia	49-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106
Zimbabwe	66-72, 74-92, 94-96, 99-101, 103, 104, 106	

**Appendix VI. Overall position of member States with regard
to the submission to the competent authorities of the
instruments adopted by the Conference**

(as at 8 December 2018)

Sessions of the ILC	Number of States in which, according to the information supplied by the Government:			Number of ILO member States at the time of the session
	All the instruments have been submitted	Some of the instruments have been submitted	None of the instruments have been submitted	

All the instruments adopted between the 31st and the 53rd Sessions have been submitted to the competent authorities by member States

54th	(June 1970)	119	1	0	120
55th	(October 1970)	120	0	0	120
56th	(June 1971)	120	0	0	120
58th	(June 1973)	122	1	0	123
59th	(June 1974)	125	0	0	125
60th	(June 1975)	125	1	0	126
61st	(June 1976)	131	0	0	131
62nd	(October 1976)	129	1	1	131
63rd	(June 1977)	131	2	1	134
64th	(June 1978)	134	0	1	135
65th	(June 1979)	135	0	2	137
66th	(June 1980)	138	0	4	142
67th	(June 1981)	138	4	1	143
68th	(June 1982)	142	2	3	147
69th	(June 1983)	143	2	3	148
70th	(June 1984)	143	0	6	149
71st	(June 1985)	145	1	3	149
72nd	(June 1986)	145	0	4	149
74th	(October 1987)	147	0	2	149
75th	(June 1988)	144	2	3	149
76th	(June 1989)	142	0	5	147
77th	(June 1990)	136	3	8	147
78th	(June 1991)	140	0	9	149
79th	(June 1992)	144	2	10	156
80th	(June 1993)	151	2	14	167
81st	(June 1994)	155	2	14	171
82nd	(June 1995)	148	9	16	173
83rd	(June 1996)	148	2	24	174
84th	(October 1996)	154	2	18	174
85th	(June 1997)	149	2	23	174
86th	(June 1998)	143	0	31	174
87th	(June 1999)	173	0	1	174

Sessions of the ILC	Number of States in which, according to the information supplied by the Government:			Number of ILO member States at the time of the session
	All the instruments have been submitted	Some of the instruments have been submitted	None of the instruments have been submitted	
88th (June 2000)	143	4	28	175
89th (June 2001)	137	4	34	175
90th (June 2002)	132	7	36	175
91st (June 2003)	145	0	31	176
92nd (June 2004)	134	0	43	177
94th (February 2006)	147	0	31	178
95th (June 2006)	128	14	36	178
96th (June 2007)	123	2	53	178
99th (June 2010)	112	0	71	183
100th (June 2011)	114	3	66	183
101st (June 2012)	106	0	79	185
103rd (June 2014)	85	6	94	185
104th (June 2015)	83	0	103	186
106th (June 2017)	41	0	146	187

Appendix VII. Comments made by the Committee, by country

The comments referred to below have been drawn up in the form of either "observations", which are reproduced in this report, or "direct requests", which are not published but are communicated directly to the governments concerned. This table also lists acknowledgements by the Committee of responses received to direct requests.

Afghanistan	General direct request Observations on Conventions Nos 100, 111 Direct requests on Conventions Nos 111, 137, 140, 142 Observation on submission
Albania	General direct request Observations on Conventions Nos 81, 111, 122, 129, 138, 182 Direct requests on Conventions Nos 29, 81, 95, 100, 105, 111, 129, 173, 177, 181 Response received to a direct request on Convention No. 131 Observation on submission
Algeria	Observations on Conventions Nos 6, 29, 87, 105, 181 Direct requests on Conventions Nos 29, 87, 105 Direct request on submission
Angola	Observation on Convention No. 111 Direct requests on Conventions Nos 12, 18, 81, 100, 107, 111 Observation on submission
Antigua and Barbuda	General direct request Observations on Conventions Nos 17, 81, 100, 111, 144, 155, 161 Direct requests on Conventions Nos 81, 94, 100, 111, 122, 131, 142, 155 Response received to a direct request on Convention No. 12 Observation on submission
Argentina	Observations on Conventions Nos 29, 87, 111 Direct requests on Conventions Nos 29, 95, 100, 111, 142, 155, 156, 177, <i>MLC</i> , 187 Response received to a direct request on Convention No. 26 Direct request on submission
Armenia	Observations on Conventions Nos 17, 18, 122, 138 Direct requests on Conventions Nos 29, 138, 182 Response received to a direct request on Convention No. 105 Direct request on submission
Australia	Observations on Conventions Nos 29, 182 Direct requests on Conventions Nos 29, 81, 162, 182, <i>MLC</i>
Austria	Direct request on Convention No. 122 Direct request on submission
Azerbaijan	Direct requests on Conventions Nos 23, 92, 122, 133, 134, 147 Observation on submission
Bahamas	Observations on Conventions Nos 100, 111, 138 Direct requests on Conventions Nos 81, 95, 105, 111, 138, 182, <i>MLC</i> Response received to a direct request on Convention No. 26 Observation on submission
Bahrain	Observation on Convention No. 111 Direct request on Convention No. 111 Observation on submission
Bangladesh	Observation on Convention No. 81 Direct requests on Conventions Nos 81, <i>MLC</i> Observation on submission

Barbados	<i>General direct request</i> Observations on Conventions Nos 97, 98, 100, 111, 118, 182 <i>Direct requests on Conventions Nos 26, 81, 97, 98, 100, 102, 105, 111, 122, 128, 138, 182</i> <i>Response received to a direct request on Convention No. 95</i> <i>Direct request on submission</i>
Belarus	Observations on Conventions Nos 29, 95 <i>Direct request on Convention No. 29</i> <i>Response received to a direct request on Convention No. 26</i> <i>Direct request on submission</i>
Belgium	<i>Direct requests on Conventions Nos 29, 107, 149, 159, 177, 184, 189</i> <i>Direct request on submission</i>
Belize	Observations on Conventions Nos 87, 98, 105, 115 <i>Direct requests on Conventions Nos 29, 88, 94, 97, 100, 105, 111, 138, 140, 144, 150, 154, 155, 156, 182</i> <i>Response received to a direct request on Convention No. 141</i> Observation on submission
Benin	Observations on Conventions Nos 138, 182 <i>Direct requests on Conventions Nos 29, 138, 182, MLC</i>
Bolivia, Plurinational State of	Observations on Conventions Nos 29, 95, 131, 136, 138, 162 <i>Direct requests on Conventions Nos 29, 81, 95, 105, 122, 129, 136, 138, 156, 162, 167</i> <i>Response received to a direct request on Convention No. 120</i> Observation on submission
Bosnia and Herzegovina	Observation on Convention No. 122 <i>Direct requests on Conventions Nos 140, 177, MLC</i> <i>Direct request on submission</i>
Botswana	Observations on Conventions Nos 87, 98, 105, 144, 182 <i>Direct requests on Conventions Nos 29, 87, 95, 138, 173, 182</i> <i>Direct request on submission</i>
Brazil	Observations on Conventions Nos 98, 122, 138, 182 <i>Direct requests on Conventions Nos 22, 95, 98, 125, 126, 131, 133, 146, 147, 163, 164, 166, 178, 182</i> <i>Response received to a direct request on Convention No. 113</i> <i>Direct request on submission</i>
Brunei Darussalam	General observation <i>Direct requests on Conventions Nos 138, 182</i> Observation on submission
Bulgaria	Observation on Convention No. 177 <i>Direct requests on Conventions Nos 29, 105, 122, 156</i> <i>Direct request on submission</i>
Burkina Faso	<i>Direct requests on Conventions Nos 122, 142</i> Observation on submission
Burundi	Observations on Conventions Nos 26, 105, 111, 138, 182 <i>Direct requests on Conventions Nos 105, 111, 138, 182</i> Observation on submission
Cabo Verde	Observations on Conventions Nos 138, 182 <i>Direct requests on Conventions Nos 29, 138, 182, MLC</i> <i>Direct request on submission</i>
Cambodia	Observation on Convention No. 105 <i>Direct request on Convention No. 105</i> <i>Direct request on submission</i>
Cameroon	Observation on Convention No. 87 <i>Direct request on submission</i>

Canada	Observation on Convention No. 122 <i>Direct requests on Conventions Nos 26, 122</i> <i>Direct request on submission</i>
Central African Republic	Observations on Conventions Nos 81, 95, 131, 155, 169 <i>Direct requests on Conventions Nos 13, 62, 81, 95, 117, 119, 120, 122, 142, 155, 169</i> Observation on submission
Chad	General observation Observations on Conventions Nos 29, 111, 144, 151, 182 <i>Direct requests on Conventions Nos 29, 81, 98, 100, 105, 111, 138, 182</i> Observation on submission
Chile	Observations on Conventions Nos 100, 111, 122, 169 <i>Direct requests on Conventions Nos 29, 100, 105, 111, 140, 169, 189</i> <i>Response received to direct requests on Conventions Nos. 26, 131</i> Observation on submission
China	Observations on Conventions Nos 155, 167 <i>Direct requests on Conventions Nos 155, 167, 170, MLC</i> <i>Response received to direct requests on Conventions Nos. 19, 26</i> <i>Direct request on Convention No. 122</i>
Hong Kong Special Administrative Region Macau Special Administrative Region	<i>Direct requests on Conventions Nos 17, 26, 122, 148, 155, 167</i> <i>Response received to a direct request on Convention No. 19</i>
Colombia	Observation on Convention No. 29 <i>Direct requests on Conventions Nos 26, 95, 99</i> <i>Direct request on submission</i>
Comoros	<i>General direct request</i> <i>Direct requests on Conventions Nos 100, 111</i> Observation on submission
Congo	General observation Observations on Conventions Nos 29, 81, 87, 100, 111, 152, 182 <i>Direct requests on Conventions Nos 29, 87, 100, 105, 111, 149, 182</i> Observation on submission
Cook Islands	<i>Direct request on Convention No. 11</i> <i>Direct request on submission</i>
Costa Rica	Observation on Convention No. 122 <i>Direct requests on Conventions Nos 29, 113, 114, 122, 137</i>
Côte d'Ivoire	<i>General direct request</i> Observations on Conventions Nos 138, 144, 182 <i>Direct requests on Conventions Nos 29, 100, 105, 159, 182</i> <i>Direct request on submission</i>
Croatia	Observations on Conventions Nos 81, 98, 129, 155, 161, 162 <i>Direct requests on Conventions Nos 29, 32, 45, 81, 98, 129, 139, 148, 155, 161, 162, 182</i> <i>Response received to direct requests on Conventions Nos. 13, 119, 136</i> Observation on submission
Cuba	Observation on Convention No. 110 <i>Direct requests on Conventions Nos 113, 142</i> <i>Response received to a direct request on Convention No. 107</i>
Cyprus	Observation on Convention No. 122 <i>Direct request on Convention No. 172</i>
Czech Republic	<i>Response received to direct requests on Conventions Nos. 26, 95, 99</i>

Democratic Republic of the Congo	<i>General direct request</i> Observations on Conventions Nos 87, 94, 98, 100, 111, 135, 144, 158 <i>Direct requests on Conventions Nos 87, 95, 100, 111, 117, 119, 120, 150</i> Observation on submission
Denmark	<i>Direct request on Convention No. 142</i>
Djibouti	<i>General direct request</i> Observations on Conventions Nos 19, 24, 37, 38, 122, 138, 182 <i>Direct requests on Conventions Nos 17, 18, 29, 81, 100, 105, 111, 138, 182</i> <i>Direct request on submission</i>
Dominica	General observation Observations on Conventions Nos 29, 81, 94, 138, 147 <i>Direct requests on Conventions Nos 12, 19, 26, 29, 87, 95, 97, 100, 105, 111, 135, 144, 150, 169, 182</i> Observation on submission
Dominican Republic	<i>General direct request</i> <i>Direct requests on Conventions Nos 26, 95, 172, 187, 189</i> <i>Response received to a direct request on Convention No. 107</i> <i>Direct request on submission</i>
Ecuador	Observations on Conventions Nos 98, 138, 182 <i>Direct requests on Conventions Nos 29, 97, 105, 114, 122, 138, 182</i> <i>Response received to a direct request on Convention No. 113</i> <i>Direct request on submission</i>
Egypt	Observations on Conventions Nos 87, 92, 105 <i>Direct requests on Conventions Nos 105, 159</i> <i>Response received to a direct request on Convention No. 68</i> <i>Direct request on submission</i>
El Salvador	Observations on Conventions Nos 87, 107, 144, 182 <i>Direct requests on Conventions Nos 29, 87, 107, 131, 138, 155, 182</i> <i>Response received to a direct request on Convention No. 99</i> Observation on submission
Equatorial Guinea	General observation Observations on Conventions Nos 87, 98, 103, 111 <i>Direct requests on Conventions Nos 1, 29, 30, 105, 138, 182</i> Observation on submission
Eritrea	Observations on Conventions Nos 29, 87, 98, 105, 138 <i>Direct requests on Conventions Nos 29, 87, 105, 138</i> <i>Direct request on submission</i>
Estonia	<i>Direct requests on Conventions Nos 29, 122</i> <i>Response received to direct requests on Conventions Nos. 138, 182</i>
Eswatini	Observation on Convention No. 87 <i>Direct requests on Conventions Nos 87, 95, 98</i> <i>Response received to a direct request on Convention No. 131</i> Observation on submission
Ethiopia	Observations on Conventions Nos 105, 138, 182 <i>Direct requests on Conventions Nos 29, 105, 138, 182</i> <i>Direct request on submission</i>
Fiji	Observations on Conventions Nos 87, 100, 111 <i>Direct requests on Conventions Nos 100, 111</i> Observation on submission
Finland	Observation on Convention No. 156 <i>Direct requests on Conventions Nos 122, 140, 148, 156, 170, 174, 189</i>

France	Observations on Conventions Nos 122, 156 <i>Direct requests on Conventions Nos 29, 122, 137, 149, 156, 181, 187</i> <i>Direct request on submission</i> <i>General direct request</i>
French Polynesia	Observation on Convention No. 111 <i>Direct requests on Conventions Nos 29, 81, 82, 100, 111, 122, 125, 126, 129, 142</i> <i>General direct request</i>
French Southern and Antarctic Territories New Caledonia	Observations on Conventions Nos 100, 111 <i>Direct requests on Conventions Nos 111, 181, 187</i>
Gabon	General observation <i>Direct requests on Conventions Nos 29, 155, 167</i> <i>Response received to direct requests on Conventions Nos. 12, 19</i> Observation on submission
Gambia	General observation Observations on Conventions Nos 87, 98, 111 <i>Direct requests on Conventions Nos 29, 87, 100, 105, 111, 138, 182</i> Observation on submission
Georgia	Observation on Convention No. 100 <i>Direct requests on Conventions Nos 29, 100, 105, 117, 142</i> <i>Response received to direct requests on Conventions Nos. 138, 182</i> <i>Direct request on submission</i>
Germany	Observations on Conventions Nos 29, 100, 111 <i>Direct requests on Conventions Nos 29, 100, 111</i> <i>Direct request on submission</i>
Ghana	<i>General direct request</i> Observations on Conventions Nos 81, 100, 108, 111, 182 <i>Direct requests on Conventions Nos 29, 81, 105, 107, 111, 117, 119, 138, 144, 149, 182, 184, MLC</i> <i>Response received to a direct request on Convention No. 26</i> <i>Direct request on submission</i>
Greece	Observations on Conventions Nos 87, 98, 122, 138 <i>Response received to a direct request on Convention No. 182</i> <i>Direct request on submission</i>
Grenada	General observation Observations on Conventions Nos 81, 144 <i>Direct requests on Conventions Nos 81, 87, 95, 97, 105, 138, 155, 182</i> <i>Response received to direct requests on Conventions Nos. 26, 99</i> Observation on submission
Guatemala	Observations on Conventions Nos 87, 138, 144, 169, 182 <i>Direct requests on Conventions Nos 97, 112, 113, 114, 138, 149, 169, 182</i>
Guinea	<i>General direct request</i> Observations on Conventions Nos 29, 105, 111, 113, 118, 138, 142, 156, 182 <i>Direct requests on Conventions Nos 29, 45, 100, 105, 111, 117, 118, 121, 138, 140, 143, 144, 149, 156, 182</i> Observation on submission
Guinea - Bissau	General observation Observations on Conventions Nos 81, 98 <i>Direct requests on Conventions Nos 12, 17, 18, 19, 26, 29, 68, 69, 81, 88, 100, 105, 108, 111, 138, 182</i> Observation on submission
Guyana	<i>General direct request</i> Observations on Conventions Nos 98, 137, 138, 139, 140 <i>Direct requests on Conventions Nos 29, 94, 97, 144, 149, 172, 182</i> Observation on submission

Haiti	<i>General direct request</i> Observations on Conventions Nos 1, 12, 14, 17, 24, 25, 30, 42, 81, 87, 98, 106, 182 <i>Direct requests on Conventions Nos 29, 77, 78, 87, 100, 111, 138, 182</i> Observation on submission
Honduras	Observations on Conventions Nos 87, 138, 182 <i>Direct requests on Conventions Nos 138, 144, 182, MLC</i> <i>Direct request on submission</i>
Hungary	<i>General direct request</i> Observations on Conventions Nos 81, 129 <i>Direct requests on Conventions Nos 29, 81, 105, 127, 129, 140, 142, 144, 148, 161, 182, MLC</i> Observation on submission
Iceland	<i>Direct requests on Conventions Nos 29, 144</i>
India	Observations on Conventions Nos 29, 81 <i>Direct requests on Conventions Nos 29, 81, 105, 141, MLC</i>
Indonesia	Observations on Conventions Nos 29, 81, 105, 106, 138, 182 <i>Direct requests on Conventions Nos 19, 29, 81, 105, 120, 138, 144, 182, 187</i>
Iran, Islamic Republic of	<i>Direct requests on Conventions Nos 29, 182, MLC</i> Observation on submission
Iraq	Observations on Conventions Nos 29, 100, 111, 182 <i>Direct requests on Conventions Nos 22, 23, 29, 92, 100, 105, 111, 137, 138, 140, 142, 144, 146, 147, 172, 182</i>
Ireland	Observations on Conventions Nos 111, 144 <i>Direct requests on Conventions Nos 98, 100, 111, MLC</i> <i>Response received to direct requests on Conventions Nos. 108, 182</i> <i>Direct request on submission</i>
Israel	Observation on Convention No. 111 <i>Direct requests on Conventions Nos 105, 111, 138, 144, 182</i>
Italy	<i>Direct request on Convention No. 29</i> <i>Response received to direct requests on Conventions Nos. 42, 105, 142</i> <i>Direct request on submission</i>
Jamaica	<i>General direct request</i> Observations on Conventions Nos 87, 94, 98, 105, 117, 138, 144, 182 <i>Direct requests on Conventions Nos 29, 81, 87, 97, 149, 182</i> <i>Response received to a direct request on Convention No. 26</i> <i>Direct request on submission</i>
Japan	Observations on Conventions Nos 29, 87 <i>Direct requests on Conventions Nos 29, 144, MLC</i>
Jordan	<i>General direct request</i> Observations on Conventions Nos 111, 138, 182 <i>Direct requests on Conventions Nos 29, 111, 117, 144, 182</i> <i>Direct request on submission</i>
Kazakhstan	Observations on Conventions Nos 29, 87, 182 <i>Direct requests on Conventions Nos 29, 105, 138, 182</i> Observation on submission
Kenya	Observations on Conventions Nos 17, 138, 143, 182 <i>Direct requests on Conventions Nos 99, 131, 138, 140, 142, 143, 182, MLC</i> <i>Response received to a direct request on Convention No. 19</i> <i>Direct request on submission</i>
Kiribati	General observation Observation on Convention No. 98 <i>Direct requests on Conventions Nos 29, 87, 100, 105, 138, 182</i> Observation on submission

Korea, Republic of	Observations on Conventions Nos 111, 156 <i>Direct requests on Conventions Nos 111, 138, 144, 156, 182</i>
Kuwait	Observations on Conventions Nos 29, 105, 111 <i>Direct requests on Conventions Nos 29, 105, 111</i> <i>Response received to direct requests on Conventions Nos. 138, 182</i> Observation on submission
Kyrgyzstan	<i>General direct request</i> Observations on Conventions Nos 81, 138, 182 <i>Direct requests on Conventions Nos 17, 27, 29, 81, 87, 95, 97, 98, 100, 105, 111, 115, 119, 120, 122, 124, 131, 138, 142, 144, 148, 149, 150, 154, 157, 159, 160, 182, 184</i> Observation on submission
Lao People's Democratic Republic	<i>General direct request</i> Observations on Conventions Nos 111, 138, 182 <i>Direct requests on Conventions Nos 29, 100, 111, 138, 144, 182</i> <i>Direct request on submission</i>
Latvia	<i>Direct requests on Conventions Nos 29, 105, 142, 149</i>
Lebanon	<i>General direct request</i> Observations on Conventions Nos 29, 98, 100, 111, 138, 182 <i>Direct requests on Conventions Nos 29, 100, 105, 111, 122, 138, 142, 172, 182</i> <i>Response received to a direct request on Convention No. 59</i> Observation on submission
Lesotho	<i>General direct request</i> Observations on Conventions Nos 138, 182 <i>Direct requests on Conventions Nos 26, 29, 105, 144, 182</i> Observation on submission
Liberia	<i>General direct request</i> Observations on Conventions Nos 87, 98, 182 <i>Direct requests on Conventions Nos 29, 105, 144, 182, MLC</i> Observation on submission
Libya	Observations on Conventions Nos 29, 100, 105, 111, 122, 182 <i>Direct requests on Conventions Nos 29, 87, 98, 100, 105, 111, 182</i> Observation on submission
Lithuania	Observations on Conventions Nos 100, 111 <i>Direct requests on Conventions Nos 29, 100, 111, 144, 156</i>
Luxembourg	<i>Direct requests on Conventions Nos 81, 129</i> <i>Response received to direct requests on Conventions Nos. 26, 150</i>
Madagascar	Observations on Conventions Nos 105, 124, 138, 144, 182 <i>Direct requests on Conventions Nos 6, 29, 88, 117, 159, 182</i> <i>Direct request on submission</i>
Malawi	<i>General direct request</i> Observations on Conventions Nos 29, 129, 138, 144, 182 <i>Direct requests on Conventions Nos 26, 29, 81, 87, 97, 98, 99, 105, 107, 149, 150, 158, 159, 182</i> Observation on submission
Malaysia	Observations on Conventions Nos 29, 98, 100, 138, 182 <i>Direct requests on Conventions Nos 29, 95, 100, 144, 182</i> Observation on submission
Peninsular	<i>General direct request</i>
Sabah	Observation on Convention No. 19 General observation Observation on Convention No. 97 <i>Direct requests on Conventions Nos 94, 97</i>
Sarawak	<i>General direct request</i> Observations on Conventions Nos 14, 19 <i>Direct request on Convention No. 94</i>

Maldives, Republic of	General observation <i>Direct requests on Conventions Nos 29, 105, 138, 182</i> Observation on submission
Mali	Observations on Conventions Nos 138, 182 <i>Direct requests on Conventions Nos 105, 144, 182</i> Observation on submission
Malta	<i>General direct request</i> <i>Direct requests on Conventions Nos 88, 117, 149, MLC</i> <i>Response received to a direct request on Convention No. 108</i> Observation on submission
Marshall Islands	Observation on submission
Mauritania	<i>General direct request</i> Observations on Conventions Nos 100, 138, 182 <i>Direct requests on Conventions Nos 94, 100, 105, 138, 182</i> <i>Direct request on submission</i>
Mauritius	<i>Direct requests on Conventions Nos 29, 105, 144</i> <i>Direct request on submission</i>
Mexico	<i>General direct request</i> Observations on Conventions Nos 22, 55, 87, 134, 163, 164, 166 <i>Direct requests on Conventions Nos 87, 110, 138, 142, 144, 172</i> Observation on submission
Moldova, Republic of	<i>General direct request</i> Observations on Conventions Nos 81, 129, 142, 152 <i>Direct requests on Conventions Nos 29, 92, 105, 117, 138, 144, 182</i> Observation on submission
Mongolia	<i>Direct requests on Conventions Nos 88, 181, MLC</i> <i>Direct request on submission</i>
Montenegro	<i>General direct request</i> <i>Direct requests on Conventions Nos 29, 105, 113, 114, 140, 144, 182, MLC</i>
Morocco	Observations on Conventions Nos 29, 94, 105, 111, 138, 182 <i>Direct requests on Conventions Nos 29, 111, 138, 144, 182</i> <i>Direct request on submission</i>
Mozambique	Observations on Conventions Nos 87, 98, 100, 105, 138, 182 <i>Direct requests on Conventions Nos 29, 87, 98, 100, 105, 111, 138, 182</i> Observation on submission
Myanmar	Observations on Conventions Nos 29, 87, 182 <i>Direct requests on Conventions Nos 29, 63, 182</i> <i>Direct request on submission</i>
Namibia	Observation on Convention No. 111 <i>Direct requests on Conventions Nos 100, 111, 144</i> <i>Direct request on submission</i>
Nepal	Observations on Conventions Nos 29, 98, 138, 182 <i>Direct requests on Conventions Nos 29, 138, 182</i> <i>Response received to a direct request on Convention No. 105</i> <i>Direct request on submission</i>
Netherlands	<i>Direct requests on Conventions Nos 29, 144, 177</i> <i>Response received to a direct request on Convention No. 169</i>

Aruba	<i>General direct request</i> Observation on Convention No. 138 <i>Direct requests on Conventions Nos 29, 87, 94, 105, 122, 138, 140, 142, 144, 182</i> <i>Direct request on Convention No. 172</i>
Caribbean Part of the Netherlands Curaçao	General observation <i>Direct requests on Conventions Nos 94, 144, 151, 172</i> <i>Response received to a direct request on Convention No. 87</i> <i>Direct requests on Conventions Nos 144, 172</i>
Sint Maarten	<i>Direct requests on Conventions Nos 144, 172</i>
New Zealand	Observation on Convention No. 182 <i>Direct requests on Conventions Nos 29, 81, 144, 155, MLC</i>
Tokelau	<i>Direct request on Convention No. 82</i>
Nicaragua	General observation Observations on Conventions Nos 117, 138, 169, 182 <i>Direct requests on Conventions Nos 95, 100, 138, 140, 142, 144, 169, 182, 189</i> <i>Direct request on submission</i>
Niger	Observations on Conventions Nos 138, 182 <i>Direct requests on Conventions Nos 105, 138, 142, 150, 181, 182</i>
Nigeria	Observations on Conventions Nos 26, 29, 88, 95, 98, 138, 144, 182 <i>Direct requests on Conventions Nos 29, 45, 81, 94, 105, 138, 182, MLC</i> <i>Direct request on submission</i>
Norway	<i>Direct requests on Conventions Nos 81, 129, 167, 187</i>
Oman	<i>Direct request on submission</i>
Pakistan	Observations on Conventions Nos 81, 87, 98 <i>Direct requests on Conventions Nos 81, 87, 107, 144</i> Observation on submission
Palau	<i>Direct request on submission</i>
Panama	Observations on Conventions Nos 87, 98, 122 <i>Direct requests on Conventions Nos 110, 114, 122, 125, 126, 189</i> <i>Direct request on submission</i>
Papua New Guinea	<i>General direct request</i> Observations on Conventions Nos 98, 111, 138, 158, 182 <i>Direct requests on Conventions Nos 22, 26, 27, 29, 87, 99, 100, 105, 111, 122, 138, 182</i> Observation on submission
Paraguay	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 100, 111, 156</i> <i>Direct request on submission</i>
Peru	Observations on Conventions Nos 87, 98, 100, 111, 159 <i>Direct requests on Conventions Nos 55, 56, 87, 100, 111, 122, 156, 159</i> <i>Direct request on submission</i>
Philippines	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 87, 98, 110, MLC</i>
Poland	Observations on Conventions Nos 81, 87, 98, 122, 129, 140, 142, 149 <i>Direct requests on Conventions Nos 81, 87, 129</i>
Portugal	<i>General direct request</i> Observations on Conventions Nos 98, 137 <i>Direct requests on Conventions Nos 87, 189</i> <i>Direct request on submission</i>
Qatar	Observations on Conventions Nos 81, 111 <i>Direct requests on Conventions Nos 81, 111</i> <i>Direct request on submission</i>

Romania	General observation Observations on Conventions Nos 81, 87, 98, 111, 122, 129 <i>Direct requests on Conventions Nos 81, 87, 98, 100, 108, 111, 122, 129</i> <i>Direct request on submission</i>
Russian Federation	Observations on Conventions Nos 81, 87, 98, 111, 113, 126 <i>Direct requests on Conventions Nos 81, 95, 111, 126, 137, 150, 156</i> <i>Direct request on submission</i>
Rwanda	Observations on Conventions Nos 87, 94, 98, 100 <i>Direct requests on Conventions Nos 87, 100, 122</i> <i>Response received to a direct request on Convention No. 123</i> Observation on submission
Saint Kitts and Nevis	<i>Direct requests on Conventions Nos 29, 105, 138, 182, MLC</i> Observation on submission
Saint Lucia	General observation Observations on Conventions Nos 17, 87, 98, 100 <i>Direct requests on Conventions Nos 5, 19, 26, 29, 87, 100, 108, 111, 154, 158, 182</i> <i>Response received to a direct request on Convention No. 95</i> Observation on submission
Saint Vincent and the Grenadines	General observation Observations on Conventions Nos 81, 87, 98, 100, 182 <i>Direct requests on Conventions Nos 81, 95, 100, 105, 108, 111, 122, 129, 138, 144, 182</i> Observation on submission
Samoa	Observation on Convention No. 182 <i>Direct requests on Conventions Nos 87, 98, 182</i> Observation on submission
San Marino	<i>General direct request</i> Observations on Conventions Nos 148, 160 <i>Direct requests on Conventions Nos 98, 100, 111, 140, 143, 156, 159</i> <i>Direct request on submission</i>
Sao Tome and Principe	<i>General direct request</i> Observation on Convention No. 98 <i>Direct request on Convention No. 87</i> <i>Direct request on submission</i>
Saudi Arabia	Observation on Convention No. 81 <i>Direct request on Convention No. 81</i> <i>Direct request on submission</i>
Senegal	Observations on Conventions Nos 81, 87, 111 <i>Direct requests on Conventions Nos 81, 98</i> <i>Direct request on submission</i>
Serbia	Observations on Conventions Nos 81, 87, 98, 129, 144 <i>Direct requests on Conventions Nos 81, 98, 129, 150, 162, 181</i> <i>Direct request on submission</i>
Seychelles	Observation on Convention No. 98 <i>Direct requests on Conventions Nos 26, 81, 87, 99</i> Observation on submission
Sierra Leone	General observation Observations on Conventions Nos 17, 29, 81, 88, 98, 119, 125, 144 <i>Direct requests on Conventions Nos 26, 81, 87, 94, 95, 100, 101, 105, 111, 126</i> Observation on submission
Singapore	<i>General direct request</i> Observation on Convention No. 81 <i>Direct requests on Conventions Nos 29, 32, 81, 94, 100, 144</i> <i>Direct request on submission</i>

Slovakia	Observations on Conventions Nos 81, 129, 156 <i>Direct requests on Conventions Nos 81, 98, 129, 140, 156</i>
Slovenia	<i>General direct request</i> Observations on Conventions Nos 81, 98, 129 <i>Direct requests on Conventions Nos 81, 98, 129, 187</i>
Solomon Islands	<i>Direct requests on Conventions Nos 11, 29, 42, 87, 94, 95, 98, 105, 108, 138, 182</i> Observation on submission
Somalia	General observation Observations on Conventions Nos 87, 98 <i>Direct request on Convention No. 182</i> Observation on submission
South Africa	<i>General direct request</i> Observation on Convention No. 87 <i>Direct requests on Conventions Nos 98, MLC, 189</i> <i>Direct request on submission</i>
South Sudan	General observation <i>Direct requests on Conventions Nos 98, 100, 111</i> <i>Direct request on submission</i>
Spain	Observations on Conventions Nos 97, 100, 111, 137, 181 <i>Direct requests on Conventions Nos 87, 95, 97, 98, 111, 169, 173</i> <i>Direct request on submission</i>
Sri Lanka	<i>General direct request</i> Observations on Conventions Nos 87, 98, 100, 111 <i>Direct requests on Conventions Nos 87, 100, 111</i> <i>Direct request on submission</i>
Sudan	Observations on Conventions Nos 81, 122 <i>Direct request on Convention No. 81</i> <i>Direct request on submission</i>
Suriname	<i>Direct requests on Conventions Nos 81, 87, 98, 122, 150</i> <i>Direct request on submission</i>
Sweden	Observations on Conventions Nos 87, 98 <i>Direct request on Convention No. 140</i> <i>Direct request on submission</i>
Switzerland	Observation on Convention No. 98 <i>Direct requests on Conventions Nos 81, 87, 142, MLC</i>
Syrian Arab Republic	Observations on Conventions Nos 87, 98 <i>Direct request on Convention No. 107</i> Observation on submission
Tajikistan	<i>General direct request</i> Observations on Conventions Nos 81, 100, 111 <i>Direct requests on Conventions Nos 81, 87, 95, 97, 98, 111, 119, 120, 122, 142, 148, 149, 155, 177</i> <i>Direct request on submission</i>
Tanzania, United Republic of Tanzania. Tanganyika	Observations on Conventions Nos 17, 19, 87, 98 <i>Direct requests on Conventions Nos 95, 140, 142, 149</i> <i>Response received to direct requests on Conventions Nos. 12, 131</i> <i>Direct request on Convention No. 81</i>
Thailand	<i>Direct request on submission</i>
The former Yugoslav Republic of Macedonia	Observations on Conventions Nos 81, 98, 111, 129 <i>Direct requests on Conventions Nos 81, 87, 94, 111, 122, 129, 131, 140, 142, 144, 150, 162, 177</i> Observation on submission

Timor-Leste	General observation <i>Direct requests on Conventions Nos 29, 87, 98, 182</i> Observation on submission
Togo	Observations on Conventions Nos 87, 98 <i>Direct request on Convention No. MLC</i>
Tonga	<i>Direct request on submission</i>
Trinidad and Tobago	General observation Observations on Conventions Nos 87, 98, 100, 111 <i>Direct requests on Conventions Nos 81, 97, 100, 111, 122, 144, 147, 150</i> <i>Direct request on submission</i>
Tunisia	Observation on Convention No. 87 <i>Direct requests on Conventions Nos 98, 142, 144</i> <i>Direct request on submission</i>
Turkey	Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 87, 94, 159, 167, 176, 187</i>
Turkmenistan	<i>Direct requests on Conventions Nos 87, 98</i> <i>Direct request on submission</i>
Tuvalu	Observation on submission
Uganda	<i>General direct request</i> Observations on Conventions Nos 26, 81, 87, 98, 122 <i>Direct requests on Conventions Nos 17, 81, 94, 95, 100, 111, 123, 124, 143, 162</i> <i>Direct request on submission</i>
Ukraine	Observations on Conventions Nos 81, 87, 95, 100, 129, 176 <i>Direct requests on Conventions Nos 81, 95, 98, 100, 111, 117, 129, 131, 144, 156, 173, 176</i> <i>Direct request on submission</i>
United Arab Emirates	Observation on submission
United Kingdom	Observation on Convention No. 87 <i>Direct requests on Conventions Nos 87, 98</i> <i>Direct request on submission</i> Anguilla <i>Direct requests on Conventions Nos 22, 23, 82, 87, 97, 98, 108, 140</i> Bermuda <i>Direct requests on Conventions Nos 82, 98, MLC</i> British Virgin Islands <i>Direct requests on Conventions Nos 82, 97, 98</i> Falkland Islands (Malvinas) <i>Direct request on Convention No. 82</i> Gibraltar Observation on Convention No. 100 <i>Direct request on Convention No. 100</i> Guernsey <i>Direct request on Convention No. 122</i> Jersey Observations on Conventions Nos 87, 98 <i>Direct requests on Conventions Nos 97, 140</i> Montserrat <i>Direct requests on Conventions Nos 82, 87, 97, 98</i> St Helena Observation on Convention No. 98
United States	<i>Direct request on submission</i>
Uruguay	Observations on Conventions Nos 87, 94, 98, 100, 162, 189 <i>Direct requests on Conventions Nos 81, 97, 100, 110, 111, 129, 149, 156, 162, 172, 176, 189</i> <i>Direct request on submission</i>
Uzbekistan	Observations on Conventions Nos 98, 100, 111 <i>Direct requests on Conventions Nos 87, 100, 111</i> <i>Direct request on submission</i>
Vanuatu	<i>Direct requests on Conventions Nos 87, 98</i> <i>Response received to direct requests on Conventions Nos. 29, 105</i> Observation on submission

Venezuela, Bolivarian Republic of	Observations on Conventions Nos 87, 117, 122, 140, 142, 144, 149, 169 <i>Direct requests on Conventions Nos 98, 169</i> <i>Direct request on submission</i>
Viet Nam	Observations on Conventions Nos 29, 138, 182 <i>Direct requests on Conventions Nos 29, 122, 124, 138, 144, 182</i> <i>Direct request on submission</i>
Yemen	Observations on Conventions Nos 87, 94, 98, 138, 182 <i>Direct requests on Conventions Nos 29, 105, 122, 138, 144, 158, 182</i> Observation on submission
Zambia	Observations on Conventions Nos 87, 95, 98, 100, 111, 131, 138 <i>Direct requests on Conventions Nos 95, 100, 111, 131, 136, 138, 144, 155, 173, 176, 187</i> Observation on submission
Zimbabwe	Observations on Conventions Nos 87, 98, 100, 111 <i>Direct requests on Conventions Nos 26, 99, 100, 111</i>