

Committee on the Application of Standards

CAN/PV.9

Commission de l'application des normes

09.06.23

Comisión de Aplicación de Normas

111th Session, 2023

111^e session, Genève, 2023111.^a reunión, Ginebra, 2023

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Eleventh sitting, 9 June 2023, 10.05 a.m.

Onzième séance, 9 juin 2023, 10 h 05

Undécima sesión, 9 de junio de 2023, 10.05 horas

Chairperson: H.E. Ambassador Hashmi

Président: S. E. l'Ambassadeur Monsieur Hashmi

Presidente: Excmo. Sr. Embajador Hashmi

Work of the Committee

The General Survey and the General Discussion are adopted, as amended.

Travaux de la Commission

La commission a adopté, tels qu'amendés, les PV relatifs à la discussion générale et à la discussion de l'Étude d'ensemble.

Trabajos de la Comisión

Las actas relativas a la discusión general y a la discusión sobre el Estudio General se adoptaron en su tenor modificado.

Discussion of individual cases (cont.)

Discussion des cas individuels (suite)

Discusión de los casos individuales (cont.)

Liberia (ratification: 1962)

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

Convention (nº 87) sur la liberté syndicale et la protection du droit syndical, 1948

Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (núm. 87)

Chairperson – Today we have on our agenda the discussion of the following individual cases: Liberia on Convention No. 87, North Macedonia on Convention No. 98 and Madagascar on Convention No. 87. We were informed by the delegation of Nepal that they will only arrive in Geneva tomorrow afternoon. In consultation with the officers of the Committee, it has been decided in view of the logistical difficulties to postpone the examination of the individual case concerning Nepal on Convention No. 182 to Wednesday 14 June in the morning. I wish to also inform you that I will have to leave at 11 o'clock for something that where my presence is required so we have consulted among the Vice-Chairs and I am thankful to Mr Paul Mackay for filling in in my absence to proceed over the Committee.

A new D document with written information submitted by the Government of Costa Rica on Convention No. 122 is available on the Committee's web page. The period for the reception of amendments for the two verbatim PVs on General Survey and verbatim PV General Discussion closure is now over. These PVs are adopted as amended.

(The General Survey and the General Discussion are adopted, as amended.)

The verbatim PV concerning the discussion on Afghanistan on Convention No. 111 is now available on the Committee's web page. The Committee members may submit amendments

to their own statement appearing in these verbatim PVs to the Committee secretariat by tomorrow 10 June at 10 a.m. Some housekeeping things again on the registration of the list of speakers I would like to inform the Committee that to allow for efficient time management kindly register on the list of speakers as early as possible or at least 24 hours before the examination of each item on the Committee's agenda. And in doing so the delegates can use the form and fill it and send it to the Committee's email address. Kindly note that requests for registration on the list of speakers when the discussion on individual cases has already started will not be entertained. The seating arrangements as per established practice – the secretariat has reserved spaces in the front row for the Government representatives concerned during the discussion of their cases; these modalities will apply during the adoption of conclusions as well.

I would also like to draw your attention once again to the fact that all draft conclusions for individual cases will be adopted in the afternoon of Wednesday 14 June and in the morning of Thursday 15 June. May I also remind all delegates that each one of us has an obligation to abide by parliamentary language and by the generally accepted procedure. Statements should therefore be relevant to the subject under discussion and should avoid references to extraneous matters. It is my responsibility as Chair of this Committee to ensure that the rules of decorum are respected. Very quickly I would like to inform the Committee on the speaking time limits which are applicable in the examination of the individual cases: 15 minutes for the Government whose case is being discussed, 10 minutes for the Employer and Worker spokespersons, 10 minutes for the Employer and Worker members respectively from the country concerned, to be divided between the different speakers of each group, 7 minutes for the Government groups, 5 minutes for other members, 15 minutes for concluding remarks by the Government, 10 minutes for the concluding remarks by the spokespersons of the Workers' and Employers' groups.

I would also like to inform all delegates that the officers of the Committee have decided that if there are more than 17 speakers registered on the speakers list, speaking times will automatically be reduced from 5 to 3 minutes; this is also indicated in paragraph 40 of document D.1. And finally, may I request those speakers when they are delivering their statements to speak at a reasonable speed so that our interpreters can continue to do the good job that they are doing. Thank you very much and now we will proceed to the first case on our agenda which is Liberia on the Application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). I would like to invite the Government representative of Liberia, the Minister of Labour to take the floor.

Government representative (Mr CHARLES) – The delegation from Liberia states that a written response was submitted prior to this sitting.

The Government of Liberia has requested and has been offered technical assistance by the ILO that would offer a road map for the resolution of the issues most recently raised by the Committee on the Application of Standards. The ongoing work of technical assistance, which began towards the end of May, includes a review of existing decisions by the Ministry of Labour with the goal of advising as to what actions in line of the Committee's recommendation can be done now without violation of the current Law and proposing amendment to fully effect on realized rights.

One possibility that would not require amendment is to modify the procedure of drafting Standing Orders for the Civil Service, such as the public sector. We will note that in Liberia we have two sectors of law: one is for the public sector and one is for the private sector. What we have not achieved, is that to harmonize the two laws so that all workers, regardless of whether public or private or informal can have a right to unionize. We were in discussion with the Legislature to ensure that this is achieved and at one point there was a friction within the

Liberian Labour Congress (LLC), so it became factional and as such it resulted into Court. There was a lengthy Court procedure which at its finality the Supreme Court of Liberia notified the elected officials of the LLC and requested the Ministry of Labour to nominate eminent Liberians to convene a new election. The Chair for that Committee is the former Chief Justice, former Minister of Justice, former Chair of the National Elections Commission. They have had three meetings with the LLC and as members at their respective trade unions and they have now developed the guidelines to proceed with a new election. What we do not favour as a Government is that why that process is ongoing, either faction should not opt to represent the LLC, because the rule of law through the Supreme Court has determined that there should be a new election and that election should have taken place just before this meeting but then the Election Commission thought that there was a need for alternative dispute resolution to first to a hearing before going to election, because the divide among them is deep, and that process has been ongoing.

We were successful in talking with both factions of the dispute to attend the May Day Programme. It was very interesting. It was like one Labour Congress, they all were present, everybody spoke and it was very delightful. We feel that social approach is good, we have had talks with the Chairperson of both houses of the Legislature on reviewing the Decent Work Act and the Civil Service Act, to see how it can be harmonized. The challenges that they are all going through are election season now so we have to have a programme where we would take them out of Monrovia, maybe for one week, to a county outside the capital, where they will all sit there and do the harmonization. We are talking about 14 from the Lower House and 7 from the Upper House. We have experienced that when you approach an amendment in such a way it is easier when it goes to plenary because it will have the support of the sponsored committees. We look forward to getting support from the ILO to achieve that. We want to state categorically that the Government of Liberia has never been involved with interference in

workers' rights. We have been supportive to see how this harmonization can be done. We feel that we see a light at the tunnel and we ask for assistance from the ILO to ensure that a fresh election is held, consistent with the decision of Court, so that we can have first and foremost a unified Labour Congress in Liberia, functioning. Then we go for the harmonization of the two laws to achieve one law for both public sector workers and private sector workers.

Employer members – The Employers would like to thank the Minister from the Government of Liberia for the oral and written information presented on this case. We are discussing the Government of Liberia's application in law and in practice of Convention No. 87, which is a fundamental Convention.

Liberia ratified Convention No. 87 in 1962 and the Committee of Experts provided observations on this case in 2017, 2018, 2019, 2020, 2021 as well as 2022. The last time this case was discussed by this Committee was as recent as 2022.

This Committee's conclusions in 2022 urged the Government to: (i) ensure that all workers are able to exercise their labour rights under the Convention in an environment of respect for civil liberties, including freedom of association, freedom of expression, peaceful assembly and protest without interference and fear for their personal safety and bodily integrity; (ii) ensure that trade union leaders and members are not jailed for engaging in trade union activities and that threats against trade union leaders for their activities are fully investigated and the perpetrators duly punished; (iii) enact measures, including dissuasive sanctions, to ensure that trade unions can only be dissolved by a judicial authority, only as a last resort for serious violations of law; (iv) resolve the registration of the National Health Workers' Union of Liberia (NAHWUL) as a trade union organization without further delay and provide additional information on any pending allegations; (v) review the Decent Work Act and any other related legislation to ensure that all workers, including foreign workers, are able to exercise the right

to form or join a trade union of their choice; and (vi) ensure that public sector workers enjoy the protection of the freedom of association rights under the Convention.

The Government acknowledges that it is receiving ongoing technical assistance from the ILO. Following the conclusions of the Committee on the Application of Standards in 2022, the Committee of Experts repeated some of the issues of concern, including:

- ITUC-Africa's complaint about dissolution of a trade union by a state-owned company, as well as harassment and arrest of trade union leaders: The Government denies that any trade union has been dissolved, which it says would not be in line with national legislation. The Government also states that the Ministry of Labour did not receive any allegations of harassment of trade union leaders. The Committee of Experts called on the Government to institute an independent investigation into the allegations without delay and to provide information on the outcome. The Employers align with the Committee of Experts in this regard;
- Lack of legal recognition for the NHWUL, harassment of its General Secretary, as well as the Government's increasing intolerance of workers exercising their civil liberties and rights under the Convention: The Government indicates that, pending legislative amendments to harmonize the standing orders for the Civil Service and the Decent Work Act, it is considering non-statutory means to afford employees a process that resembles collective bargaining. However, the Committee of Experts urged the Government to grant the union full recognition through harmonization of the Decent Work Act and the standing orders for the Civil Service. The Employers support the Committee of Experts in this regard. With respect to the allegations of harassment of the General Secretary of the NHWUL, the Government stated that it does not have the necessary information to commence an investigation. The

Employers would like to urge the Government to conduct an independent investigation of the allegation and provide information on its outcome;

- **Scope of application to civil servants:** Noting ITUC's allegation that a recent court decision excluded associations of public servants from the Decent Work Act, the Committee of Experts urged the Government to provide information on the developments around its efforts to harmonize the Decent Work Act and the Standing Orders for the Civil Service, in order to ensure that public servants enjoy the rights enshrined in the Convention. In this regard, we note the information submitted by the Government that harmonization may not be a priority, given the articulated differences in conditions of service and benefits under the two regimes. Nevertheless, the Employers call on the Government to harmonize the laws to the extent necessary to ensure that public servants can access their rights under the Convention;
- **Exclusion of certain categories of maritime workers:** With regard to the exclusion of certain categories of maritime workers from the Decent Work Act (section 1.5(1)(c) and (e)), the Committee of Experts had called on the Government to indicate how these workers were protected or enabled to enjoy the rights enshrined in the Convention. However, the Government did not provide any information in this regard. Therefore, the Employers align with the Committee of Experts in urging the Government to provide the information in this regard;
- **Foreign workers:** The Committee of Experts had previously recommended the amendment of section 45.6 of the Decent Work Act to enable foreign workers to form their own organizations to defend their occupational interests. In this regard the Government indicated that it was engaging with existing foreign workers' bodies to form a separate body

for this purpose. The Government is accordingly urged to submit information on developments on this issue;

- **Essential Services:** As regards the Committee of Experts' request to the Government to provide information on any developments with regard to the designation of essential services by the National Tripartite Council, the Employers do not support this. We would point out that the issue of essential services is related to the right to strike and therefore falls outside the scope of the Convention. We would like to recall that, as evidenced by the clear wording and the legislative history of ILO standard-setting, neither Convention No. 87 nor any other ILO Convention contain rules on the right to strike.

This concludes our comments on this case. We look forward to hearing the views of other groups on this case.

Worker members – This is the second consecutive year that our Committee is asked to examine the application of Convention No. 87 by the Government of Liberia.

Last year, our group deplored the closing of the space for trade unions to freely operate in Liberia. In view of the deteriorating situation, this Committee has urged the Government to ensure that all workers are able to exercise their labour rights in an environment of respect for civil liberties, including freedom of association, freedom of expression, peaceful assembly and protest without interference and fear for their personal safety and bodily integrity.

We regret to observe that no progress has been made on the ground since our last review. On the contrary, the Government continues to unduly interfere in trade union activities and persists in not complying with its obligations under Convention No. 87 in law and practice, in spite of what we hear regarding contact between the Government and the ILO in respect of technical assistance.

Firstly, the Government continues to deny the NAHWUL legal recognition. The Government has explained that, since 2018, the Ministry of Health has given functional acceptance of NAHWUL as a body representing its members, pending the revision of appropriate national laws. We recall that in 2016 NAHWUL filed a complaint with the Committee on Freedom of Association on these same matters. We regret that there has been no progress with respect to the legal status and registration of NAHWUL. The Government must take immediate steps to register NAHWUL as a trade union organization. This can no longer be delayed any further.

Secondly, the Decent Work Act of 2015 does not apply to workers covered by the Civil Service Agency Act. Section 1(5)(c)(i) and (ii) of the Decent Work Act excludes from its scope of application work falling within the scope of the Civil Service Agency Act. The Government has acknowledged this. And though in its report to the Committee of Experts, the Government indicated that it was working to harmonize the Decent Work Act and the Civil Servant Standing orders, nothing has been done to ensure that civil servants and public servants can exercise their right to form or join a trade union – a right protected by the Convention.

In 2022, the Civil Law Court decided that the association of public civil servants are not subject to the Decent Work Act. As such, they cannot be members of the LLC – an umbrella organization of labour unions in Liberia. The court therefore declared that the conference of the LLC which was held on 30 March 2022 and in which the association of public civil servants participated was null and void. This is a major setback for the union movement in Liberia and an interference in the independence of the LLC.

In 2023, the Government continued to hinder the trade union activities of the LLC. In May, the LLC submitted its delegation list to the Ministry of Labour for the purposes of the Conference. The Government refused to nominate the delegates proposed because of their

membership with the Civil Servant Association of Liberia. Instead it nominated unilaterally the workers' delegation, in violation of the ILO Constitution.

There is no doubt, as has been articulated by the Committee of Experts, that all workers are covered by Convention No. 87 with possible limitations regarding the police and armed forces. We again want to urge the Government to take immediate steps to register the Civil Servant Association of Liberia and to address any harm caused to the LLC in this regard. Thirdly, section 1(5)(c)(i) and (ii) of the Decent Work Act also excludes from its scope of application, officers, members of the crew and any other persons employed or in training on vessels. The Government must provide detailed information as to how, both in law and in practice, these particular rights are ensured to maritime workers, including trainees.

Furthermore, in line with the comments of the Committee of Experts, we urge the Government to take any necessary measures, including through the amendment of section 45.6 of the Decent Work Act recognizing the right of foreign workers to join organizations, to ensure that the right to establish organizations to defend the occupational interests of foreign workers is fully recognized both in law and in practice.

Finally, with respect to the determination of essential services, we note that section 4(1) of the Decent Work Act, gives the National Tripartite Council, the function of identifying and recommending, to the Minister, services to be considered as essential services, for consideration and determination. Though section 41.4(a) of the Act defines essential services as those that in the opinion of the National Tripartite Council, if interrupted, would endanger the life, personal safety or health of the whole or any part of the population, the President of the Republic decides whether to designate any service as an essential service and can apparently do so without recourse to the recommendation of the National Tripartite Committee. We must reiterate that respect for the rule of law and civil liberties is essential for

the exercise of freedom of association and urge the Government to ensure that the powers of the President to designate any service as an essential service is in line with Convention No. 87.

Chairperson – Before we proceed to the next speaker, I wish to inform the Committee members, that the actual list of speakers in total has exceeded 17. Reduced speaking time limits would apply

Employer member, Liberia (Mr STHOTHER) – Liberia's employers sector is challenged to form policy and access to finance. That is creating a serious setback in the private sector. If you follow today in our country, most of the businesses are closing down. Since COVID-19 there has been no help to the private sector. Therefore, if we must maintain what we are doing now, with the employment system, we will see the private sector grow. In that case we will be able to maintain the workforce. So we ask that this meeting look at the issue of the private sector in Liberia. With regard to access to finance, the issue of rate is huge in the market. The employer is going to the bank to access a loan, the turnaround time of a loan is very short, because of liquidity needs in our country. These are challenges that we are faced with. In that case, it is closing most of the businesses now and reducing the workforce in our country, so we need at least to seek in this Committee how to address the issue in our country.

Worker member, Liberia (Ms Doe) – Liberia is appearing before this Committee for the second consecutive time. The organized labour community in Liberia is appreciative of this listing because the right to freedom of association in our country is facing an existential threat. This threat is a well-coordinated but jaundiced attack organized by our Government whose elected and appointed officials as politician enjoy their rights to freedom of association under their various political parties. This attacks against the enjoyment of freedom of association against workers are perpetrated against the background that our Constitution expressly prescribes for the right to be enjoyed by all workers without distinction. This year, 2023, marks

the 51 years that Liberia ratified Convention No. 87, in 1962. The LLC is the only trade union centre for workers within the public, private and informal sectors of Liberia, which continue to engage in every trade union campaign action to ensure the protection of trade union dignity and the protection of workers' rights within the borders of Liberia.

Regrettably, Liberia remains the only African country that has refused to recognize the right of public sector workers to freely form and join trade unions of their choosing, though the oldest member of the ILO of the continent. Indeed, the country's long stay in this Organization has not benefited freedom of association within the world of work. This is because public sector and maritime workers continue to have their rights to freedom of association undermined, denied and attacked. The legislative framework for labour relation and governing in Liberia can still benefit from urgent, genuine and critical reform. Aside from exclusion of public sector and maritime workers denied the enjoyment of this right, those from the informal economy and domestic workers are not covered by the Decent Work Act. We are not convinced that the Government will supervise well and include technical support to ensure the efficient application of the provisions of Convention No. 87 as stated in its letter. This is because the Government continues to interfere in trade union activity. Convention No. 87 provides that workers' organizations, administration and activities should not be interfered with. Unfortunately, the current Government has continued to do this and have interfered to another low level. We ask this Committee to imagine the situation where we conducted our congress and elected a worker from the public sector as President, only for the Government to say that this leader cannot be recognized. The Government is in concert with some disgruntled workers to undermine our administration. Today, we have a ruling that agreed that the current wayward Decent Work Act is superior to the country's Constitution.

The Constitution of the LLC, especially articles 7 and 27, speak of membership/affiliation that workers' organizations in the formal (public and private sectors) and those in the informal

economy subscribe to the visions and mission of LLC after internal due diligence has been done, according to the provisions contained in Convention No. 87. The following public sector workers were duly affected: Civil Servants Association, National Teachers Association and the NAHWUL.

Liberia is a signatory to the African Charter on Human and People's Rights (the Banjul Charter), adopted on 28 June 1981 in The Gambia. Liberia was a major player in the development of this Charter. We recall this development because the Government has continued to disagree the provision of this very important instrument of Africa that safeguards and advance civil liberties. The Government continues to violate Article 10 (right to freedom of association), Article 11 (right to assembly) and Article 9 (right to receive information and free expression) are some of the basic means to safeguard workplace rights and advance industrial relation practice. Liberian workers wish to appeal to this Committee to take further steps to ensure that its conclusion on this matter is well implemented upon the presentation of the roadmap by the Government that the ILO should monitor and collect report on. Of course, the implementation must be done with the full participation of the social partners, especially the LLC without any hesitation whatsoever.

Government member, Sweden (Ms BUCHT) – I have the honour to speak on behalf of the European Union (EU) and its Member States. The candidate countries: Albania, Bosnia and Herzegovina, the Republic of North Macedonia, Montenegro, the Republic of Moldova, the EFTA country Norway, member of the European economic area, align themselves with this statement.

The EU and its Member States are committed to the promotion, protection, and respect and fulfilment of human rights, including labour rights. We actively promote the universal ratification and implementation of the fundamental international standards, including

Convention No. 87. We support the ILO in its indispensable road to develop, promote, and supervise the effective implementation of ratified international standards and the fundamental Conventions in particular.

The EU and its Member States are long-term partners of Liberia. This partnership is further reinforced in the framework of our cooperation with the African Union and ECOWAS as well as including Liberia among the beneficiaries of the EU's "Everything but Arms" scheme.

We note with deep concern that according to ITUC's most recent observations, while the Government has given functional acceptance to the NAHWUL, it is yet to validate its legal recognition. We are greatly concerned about the observations made by ITUC-Africa denouncing the dissolution of a trade union by a state-owned company, individual cases of police force to break-up peaceful strikes, and the arrest of union leaders and wrongful dismissal of workers for the participation in strike actions.

We urge the Government, in line with the Committee of Experts' request to ensure that all workers, including those in the public sector, are able to exercise their labour rights under this Convention. This, in an environment of respect for civil liberties including freedom of association, freedom of expression, peaceful assembly and protests without inference or fear for their personal safety.

We fully echo the request of the Committee to enact measures to ensure that trade union leaders and members are fully protected, including against imprisonment for engaging in trade union activities. It is essential to establish regulations, including dissuasive sanctions, for dissolving trade unions, allowing it only as a last resort for severe legal violations.

We call the Liberian Government to ensure full legal recognition of the NAHWUL through the harmonization of the Decent Work Act and Civil Servants Standing Orders and to address

any pending allegations of the Government's increasing intolerance of workers exercising their civil liberties and rights under the Convention.

We encourage the Government to review the Decent Work Act and any other legislation to ensure that all workers, including foreign workers, are able to exercise the right to form or join a trade union of their choice.

We stress the importance of guaranteeing the rights under the Convention. Also, with regards to maritime workers including trainees, we join the Committee's call on the Government to provide information on laws and regulations covering this category of workers, since they are excluded from the Decent Work Act.

We recall that the Government has the responsibility to ensure the full application of the Convention, which it has voluntarily ratified. In this regard, we call on the Government to investigate the allegation of trade union rights violations and to provide a full reply to the Committee of Experts' comments.

Keeping the link to the Decent Work Act, we would like to add that, while legislation is largely in place, child labour persists in the country. Based on UNICEF's data for 2020, 32 per cent of children in the country are engaged in child labour. Of these, 30 per cent are working in dangerous conditions. We recognize that child labour is both a cause and a consequence of poverty, inequality, discrimination, social exclusion, and a lack of access to education. The European Union continues to promote education and technical vocational training through supports to the Government and state institutions in providing education and skills training for Liberian youth.

We take note of the written information supplied by the Government. We welcome that the Government has requested and been offered technical assistance by the ILO. We welcome that the Government ratified – last year, shortly after the Conference – two ILO fundamental

Conventions, Nos 100 and 138. We also welcome the Government's work towards developing a national action plan on business and human rights. The EU and its Member States will continue to follow and analyse the situation regarding the freedom of association and protection of the right to organize Convention No. 87.

We remain committed to our close cooperation and partnership with Liberia. This cooperation could also include specific technical assistance for the effective implementation of these three fundamental Conventions.

Membre travailleuse, Belgique (M^{me} DOYEN) – Des observations concernant le non-respect par le Libéria de la convention n° 87 ont été émises chaque année depuis 2018 par la commission d'experts. En juin 2022, cette commission a examiné le cas et a conclu son examen par plusieurs demandes cruciales au gouvernement:

- assurer le respect des libertés publiques, dont la liberté d'association, d'expression, de se réunir et de protester pacifiquement;
- faire cesser l'emprisonnement arbitraire des syndicalistes, mener des enquêtes approfondies et sanctionner les auteurs;
- assurer que la dissolution des syndicats ne puisse être prononcée que par les autorités judiciaires;
- reconnaître sans délai le Syndicat national des travailleurs de la santé du Libéria (NAHWUL);
- garantir que tous les travailleurs, notamment les travailleurs étrangers, puissent constituer le syndicat de leur choix ou s'y affilier; et
- assurer la protection de la liberté syndicale aux travailleurs du secteur public.

Le rapport 2023 de la commission d'experts souligne avec regret l'absence de réponses adéquates du Libéria à ces demandes pressantes, et le manque d'informations fournies sur l'état de la situation. Aujourd'hui, le gouvernement fait état d'un commentaire écrit et d'une demande d'assistance technique depuis le mois de mai.

Mais aujourd'hui, au Libéria, l'espace dont disposent les syndicats pour opérer librement continue de se réduire d'une façon drastique, et les ingérences et violations graves signalées précédemment persistent. NAHWUL est toujours traitée comme une organisation criminelle simplement parce que ses membres insistent pour jouir de leurs droits à la liberté syndicale.

De même, la Confédération syndicale internationale pour la région Afrique (CSI-Afrique) a signalé que les responsables syndicaux, en particulier ceux du secteur public, continuent d'être pourchassés et harcelés, et que les activités syndicales sont violemment réprimées et perturbées par la police. Le secrétaire général adjoint du Congrès du travail du Libéria a été arrêté et détenu par la police, juste quelques semaines après la clôture des activités de ce comité. Il a également été poursuivi par la police qui lui a tendu une embuscade alors qu'il donnait une interview à une station de radio dans une ville située à quelques kilomètres de la capitale Monrovia.

La liberté d'association et le droit à la négociation collective sont les pierres angulaires du travail décent. Ils permettent également aux travailleurs de se regrouper pour défendre les libertés civiles en plus de leurs intérêts économiques. Le respect de la liberté syndicale et le droit à la négociation collective peuvent jouer un rôle important dans l'équilibre du développement économique, auquel ils contribuent en favorisant une productivité inclusive, et la paix sociale.

La mise en œuvre par le Libéria du respect de la liberté syndicale dans la loi et dans la pratique contribuerait à maintenir la paix, le respect des libertés civiles et la stabilité après les nombreuses crises qui ont affecté le pays.

Worker member, Zimbabwe (Ms TARUVINGA) – This is the second time this Committee is discussing the case of Liberia for violating the same Convention No. 87. We discussed it recently, just last year. We recall that some of the conclusions of this Committee were that the Government of Liberia reviewed the Decent Work Act and any other related legislation to ensure that all workers, including foreign workers, are able to exercise the right to form or join a trade union of their choice; and make sure that the Government ensure that public sector workers enjoy the protection of the freedom of association rights under the Convention. The 2023 report of the Committee of Experts noted a lack of progress in the implementation of the above conclusions and the Government refused to submit a progress report.

The contentious section 1.5(c) that excludes public service workers and maritime workers and others from the scope of the Decent Work Act, has not been amended and continues to be interpreted and used as a tool for separating public service workers and private sector workers and, more particularly, to deny public sector workers the right to belong to the LLC. I condemn the Court's ruling that nullified the federation's elections 2020 and in 2022 which ruling is contrary to article 17 of Liberia's Constitution which recognizes the right to freedom of assembly and association.

Instead of taking measures to amend the Decent Work Act as directed by this Committee, the Government engaged in this in its own way of setting up what it called an independent Commission to conduct an alternative dispute resolution system between old executive members of the LLC and the new Executive that were elected members. The first meeting of

that Commission was held on 17 February 2023. This is another clear case of interference in the affairs of the LLC.

The Committee on Freedom of Association has in paragraphs 1610–1612 of the Freedom of Association digest, stressed that: “A matter involving a conflict within the trade union movement itself, the sole responsibility of parties should be given in accordance to them. Conflicts within a trade union should never be resolved by the Government, by its own members”.

The LLC conducted its elections in terms of its constitution and the Government must refrain from bringing other leaders through the back door. Therefore I call upon the Government of Liberia to stop its interference in LLC issues.

Worker member, Norway (Ms MJØBERG) – I speak on behalf of trade union of the Nordic countries.

The right to organize is a key element of the ILO’s mandate and status within the framework of advancing social justice and shared prosperity. Most importantly, being organized in a trade union gives workers a sense of belonging, representation, and legitimacy. An organized workplace provides benefits for the employers, the economy and country in terms of trade unions’ involvement in the regulations of employment relations, advancing industrial harmony, productivity, and stability. Sadly, Liberia, under its Labour Law precludes several workers from exercising their fundamental right to organize and to form or join a trade union of their choice.

We note with deep concern that the Decent Work Act does not cover the public sector unions nor the workers in the maritime sector. These workers are effectively denied their vital, fundamental rights to organize. In addition, the National Health Workers’ Union continues to

face serious obstacles to register their legitimate union. It is unfortunate that the Government continues to deny its legal obligations.

All Nordic workers enjoy the right to form and join trade unions of their own choice and the right to bargain collectively. They belong to the workers in the public sectors, such as healthcare workers, police, prison staff and even armed forces, just as much as for those in the private sector. The right to affiliate with and to join a national trade union organization is for everyone.

We are aware that there are countries on the African continent in which the public sector workers are unionized and can join national trade unions of their choice. We would like to encourage the Government to learn from the examples of these countries as well as share their experiences.

Accordingly, we urge the Government to take necessary measures to ensure the immediate registration of the NAHWUL so that the healthcare workers can fully exercise their right to form organizations of their choice and defend their rights. We further urge the Government to review the Decent Work Act and any other related legislation to ensure that all workers are able to exercise their rights.

(Mr Mackay takes the Chair.)

Worker member, South Africa (Mr SELEMATSELA) – Given that the Government of Liberia continues to interfere in the affairs of trade unions and federations. The direct implication is that the Government of Liberia wants to dictate how trade unions must be run, especially concerning public sector workers.

Last year, this Committee heard the case of Liberia, Africa's first member of the ILO, concerning this Convention. Sitting in the hall, the impressions from all the speakers without exception was that the Government was acting in the most alien manner on a fundamental

Convention that is unambiguous. Interestingly, I could decipher from the suggestions of the various speakers, including those of the Employers, that the Government's application of the provisions of this Convention would benefit from assistance. Strangely, the Government has continued to act as if nothing is amiss. Further, it has made itself the supervisor of trade unions' internal administration while preventing public sector workers from freely joining trade unions of their choice.

Our counterpart in Liberia, the LLC, has informed us that the Liberian Government was the one who, to their dismay and disapproval, dictated the workers' delegation. We protested, but the Government remains paternalistic and overbearing.

Further, this Committee needs to be reminded that Liberia's Constitution affirms that workers, without discrimination, can join trade unions of their choosing. Chairperson, my research shows that the Liberian Constitution copied, in a way that we can be proud and appreciative of, the provisions of Convention No. 87, affirming that "workers without distinction, shall be allowed to form and join trade unions of their choice freely". This is why it is strange to us that a court of law can rule that the Constitution is inferior to other national pieces of legislation.

In South Africa, the Labour Relations Act, No. 66 of 1995, as amended, gives the right to trade unions both in the public and private sectors to organize and to belong to a trade union federation of their choice. Currently, in South Africa we have four trade union federations, with unions organized in different sectors of the economy. The Government respects the rights of unions to organize and form trade union federations to the extent that the Government does not interfere or dictate to the management of trade unions, nor do they interfere in the election of their leaders.

We, therefore, urge the Government to desist from interfering in trade union activities and to do the needful by recognizing the organized trade unions, in particular in the public sector, without further delay.

Worker member, Kenya (Mr ATELLAH) – I am making this intervention on behalf of the workers affiliated to the East African Trade Union Confederation and those of West Africa under the Organisation of West African Trade Unions (OTUWA).

There are no essential services without workers, and every worker, whether in the private or public sector, deserves a fair working environment, which includes better wages, safe jobs, paid sick leave, and union representation. Workers' classification as critical service workers or public sector employees should not be used as a symbol of outrage and denial of the freedom to organize and bargain for collective bargaining agreements.

The designation of vital services by the National Tripartite Council under section 41.4(a) of the Liberian Decent Work Act is essentially a move to deny workers' a right to fair labour practices. It forbids them from participating in labour union activities. The concept of essential services is based on Article 3 of Convention No. 87, which establishes the right of workers' organizations to organize their activities and programmes without interference from public authorities. Furthermore, with recognition of the freedom of Association, no Member State should limit the rights given by Article 3 of Convention No. 87 to groups of workers considered as essential service workers.

Joining and engaging in trade union activities does not necessarily mean strikes nor industrial disharmony but gives a legal framework for engagement in arbitration and mediation over employment concerns, which helps to dignify workers.

To contextualize the importance of the right to organize essential service workers, particularly in Liberia, we have vibrant nurses' and doctors' unions in many African countries,

Kenya being one of them, which have been key anchors of healthcare provision; it is through such unions that public institutions and governments have been able to provide the much-needed healthcare services and the attentions of these particular health workers. I am a doctor and a trade union representative of organized medical doctors and health workers of Kenya. Liberian health workers were the heroes of the country's fight against the Ebola Virus Disease and COVID-19 pandemic. These gallant workers risked all to ensure that the health regime of the country was preserved despite scores of them paying the supreme sacrifice. We understand that they were effective because their trade union organization – NAHWUL – effectively coordinated the workers. This is a typical example of how beneficial vibrant trade unions can be in strengthening healthcare systems. Therefore, the obvious and unnecessary brutality and discrimination visited upon public sector workers in Liberia disguised as essential services, is a clear violation of workers' right to organize and provide the much needed strengthening of public service provision. This Committee must insist that the Government of Liberia do the needful.

Worker member, Botswana (Mr RARI) – I am the Secretary-General of the Botswana Sectors of Educators Trade Union. I speak on behalf of the workers of Botswana. Education International aligns itself with my statement.

As an organization committed to promoting the rights and well-being of teachers and students, we believe it is our responsibility to remind the Government of Liberia that all teachers, whether employed by public authorities or by private employers, should fully enjoy their rights to association and assembly.

All workers, including public servants, should be able to exercise their labour rights under the Convention in an environment of respect for civil liberties, including freedom of

association, freedom of expression, peaceful assembly and protest without interference and fear for their personal safety and bodily integrity.

Teachers need a commitment from public authorities to respect, promote and realize their fundamental principles and rights at work.

Public employees, with the sole possible exception of the armed forces and the police, by virtue of Article 9 of Convention No. 87 should, like workers in the private sector, be able to establish organizations of their own choosing to further and defend the interests of their members.

Quality public services adequately funded are key for a human-centered development. Decent status and working conditions for teachers is important. The quality of an education system cannot exceed the quality of its teachers.

The status of teachers is multifaceted. Improving status must be about pay, employment conditions, union rights, media representation, funding, training, education policies, autonomy, continuous professional development and so on. I thank you Chair for giving me this opportunity.

Observer, Public Services International (PSI) (Mr RUBIANO) – I speak on behalf of PSI and its affiliate in Liberia, the NAHWUL.

Despite our discussion in this Committee last year, and the specific recommendations by the Committee of Experts nothing has changed in Liberia. So, I would quickly like to remind that: the Committee on Freedom of Association recommended the recognition of the NAHWUL, already in 2018 (Case No. 3202); the Government signed a Memorandum of Understanding with NAHWUL, in 2019, stating that the Ministry of Health would facilitate the granting of legal status to the union and that the union would be considered as a stakeholder when decisions were made affecting health workers; Mr George Poe Williams, former Secretary-General of the

NAHWUL, is still in self-exile because of lack of guarantees for his safety, though at least he was able to reunite with his family after more than three years.

I would like you to know that after our discussion last year, I had a meeting with the Liberian Government delegation in this Committee. I must say, it was a very friendly exchange and my impression at the time was that there was room for improvement and further discussion and engagement with the Government. However, I am afraid that none of these have materialized. On the contrary, the Government has increased its discriminatory actions against NAHWUL and for instance, at the end of 2022, the Senate Chair on Executive, invited some associations that are constituents of the NAHWUL to his office to discuss the new Public Health Law, leaving the NAHWUL out. Early in 2023, the officials of the Ministry of Health and the Civil Service Agency had a discussion with some of the NAHWUL's auxiliary associations on salary increments without the union's involvement. In the same period, the NAHWUL wrote to the Minister of Health for an audience following a consistent salary deduction without explanation, but she did not respond. There are others of these discriminable actions. At this point I would like to point out that among the three public sector workers' groupings, namely the NAHWUL, the Civil Servants Union of Liberia (CSUL) and the Civil Servants Association of Liberia (CSAL), the NAHWUL is the only union that is not allowed to collect dues from her members through the checkout system. I would also like to point out that Moibah Johnson, the President General of the LLC, was removed from the list of delegates for this Conference on the grounds that he is a civil servant and that, by law, civil servants are not permitted to form a union, let alone join the LLC.

Given all these examples of clear violations of freedom of association, I would like again to state that we deplore these practices. We demand that the Government refrains from interfering with trade union affairs and we ask the Committee to adopt conclusions matching the gravity of these allegations.

Observer, International Transport Workers' Federation (ITF) Mr SOMIRUWAN – The COVID-19 pandemic had a huge impact on the life of seafarers with hundreds of thousands of them stranded away from home for many months. Many were not paid. Many were refused medical treatment and the rates of abandonment climbed to never before seen levels. One hundred and eighteen cases of abandonment were reported in 2022, a nearly 25 per cent increase over 2021. These included Liberian flagged vessels. While the pandemic may be over, there continues to be a number of threats to the safety of seafarer including armed conflict and piracy.

Trade union rights are enabling rights, and all seafarers should enjoy this fundamental right. As a proud maritime nation, Liberia plays a critical role in the global shipping industry. The Liberian Shipping Registry is the world's second largest and it is comprised of over 5,000 vessels, aggregating over 200 million gross tons. This represents almost 15 per cent of the world's ocean going fleet. Therefore, it is particularly important that all national and foreign seafarers, including cadets and trainees working on board Liberian vessels both domestically and internationally, enjoy full trade union rights under the Convention. As the Committee of Experts has noted, sections 1.5c (i) and (ii) of the Decent Work Act of 2015, explicitly excludes from its scope of application, officers, members of the crew and any other persons employed or in training on vessels. There is no justification under the Convention for the exclusion from coverage of this particularly vulnerable occupational category. Chair, in practice we have observed that over 60 per cent of Liberian-flagged vessels are covered by an ITF-approved collective bargaining agreement - and we certainly hope to see even higher coverage in the future. Nevertheless, it is imperative that national law explicitly grants full trade union rights to seafarers.

Under the Maritime Labour Convention, which Liberia ratified in 2006, the Government must satisfy itself that the provisions of its law and regulations respect, in the context of the

Convention, the fundamental rights to freedom of association and the effective recognition of the right to collective bargaining. It is therefore also in this regard that we encourage the Government of Liberia to act swiftly on this matter so as to bring its laws and regulations into conformity with both Convention No. 87 and the Maritime Labour Convention, 2006.

ITF would be happy to work with and assist the Government, the shipping registry and the national social partners to rapidly bring about this necessary labour law reform through a revision of Liberia's maritime regulations or otherwise.

Government representative (Mr CHARLES) – We need to get setting legal framework in prospective. Liberia is a Sovereign State, governed by the Rule of Law with three branches of Government, none interfering with the other, but coordinating. The Legislator could not and cannot take steps to harmonize the Decent Work Act with the Civil Service Act while trade unions remain fragmented. It was not the Government that took trade unions to Court, it was trade unions who took trade unions Court, growing out of a disputed election of the LLC. The Court informed that the Elections Commission of the LLC proceeded wrongly and nullified the result of that election consistent with Law and ordered a new election and the Bill was taken from the Lower Court to the Supreme Court. I, as Minister of Labour, was interested in knowing the result of that complaint, but interestingly the appellant did not prosecute the case at the Supreme Court, it was abandoned. That was a brilliant opportunity to raise the issue of constitutionality, because in Liberia only the Supreme Court can pass on issues of the Constitution and I, as Minister of Labour, did urge them “file your petition”, let the Supreme Court pass on this issue once and for all”. They abandoned it and therefore the Supreme Court was left with no option but to confirm and reaffirm the decision of the Lower Court. As such the Court said we do not make the law we interpret the law. If you want to change the law go to the Legislature. The Legislature are prepared to work with the unions to harmonize the law. But they are fragmented, and they have been fragmented since 2020. As I have said before

this entire volume of Court papers, 1,200 Court papers, petitions, all kinds of delays, so they themselves have caused the delay. We are now at the stage where they are all cooperating with the Commission and may I say that the Commission is made of the National Bar Association, the Election Commission is also made of the Press Union of Liberia, eminent entities in Liberia, and as such they are proceeding to ensure that once an election is held or leadership emerges, then they can proceed with the harmonization of the law. If the Legislature proceeds without a unified union, who are they going to speak to? They are already in conflict with each other, that is why we call on this body to, instead of amplifying these issues beyond the contextual framework, to come to support the trade unions. There was a time one trade union went to the Court to get another trade union out of the premises. Seeing that the case was still pending in Court, no particular trade union should therefore operate the office. Ladies and gentlemen of this 111th Session of the International Labour Conference, the LLC needs serious attention and the Government does not want to lead because it may be interpreted as interference. There are several issues that led to the fragmentation of the union. Those issues have to be resolved, elections held, or leadership determined. All of these complaints that you see coming to you are on the head of the LLC, there is no real issue with the LLC according to law, Liberia is a Rule of Law, the result was nullified. So, we want a united trade union, it is stronger, you can bargain harder and what happens when a trade union is strong? The middle class in society grows faster, a weak trade union means that the middle class will remain stagnated. It is very important for the Government. Just a few days ago a mining company faced a strike and approached the Ministry of Labour to declare the strike illegal. We refused. They end up now additional salary increment to the workers and benefits. It happened also to LAC, a rubber plantation company, they too put the workers down. Firestone rubber plantation company denied an issue about rice. We found out that there were people in the management of the company that was getting kickbacks for rice that was

supplied to the workers. We resolved that. Bea Mountain, a gold mining company, just last week had strikes. We went in there, we did not declare this strike illegal; we harmonized it, they got a 10 per cent salary increment. Those people that are writing back and forth are those who are eyeing for the leadership of the LLC when elections are upcoming. The rank and file of the trade unions that are managing or have oversight or use huge volumes of workers in these concession areas, are very appreciative of the role the Ministry of Labour and the Government is playing to protect them. What we see here is that the ILO has a duty to provide technical and other assistance to ensure that we achieve this objective and when you get in, do not talk with factions, we are inviting the ILO to send representatives to Liberia to be part of the Election Commission that will conduct the elections of the LLC. It is very important for transparency. By inviting the ILO and the European Union and anyone who wants to come in – but there must be an elected leadership that is recognized by all of the trade unions that constitute. Once that is done, we see no problem in the Legislature proceeding to harmonize the law. We see no problem with that. But they too are waiting to talk with a legitimate leadership of the LLC.

Someone spoke about child labour. Consistent with the Decent Work Act, Liberia for the first time, has established the light work list and the hazardous work list. We are involved with huge awareness, throughout the country, to ensure that every community leader will be able to detect when a child is engaged in light work or in hazardous work. We have our labour inspectors in all of the counties ensuring that these things are adhered to. Interestingly, Liberia is one of the few countries in Africa that has logistics in the labour sector. Huge logistics. Vehicles, motorbikes, communication devices. Huge investment was made in this sector by the Government. So, all we need as a Government is collaboration. We are open to collaborating with partners to ensure that these things are done. We ask for your assistance to ensure that the election of the LLC goes on smoothly and a legitimate relation is emerged. Because that is almost like a precondition to many other things that we can achieve.

We, at the Ministry of Labour also want to note that, during the civil war time of Liberia, the United Nations had a peacekeeping force in Liberia. During that period, the Decent Work Act was introduced. Liberia was the first test case of it. The Legislature hardly had time to look at it. It was passed. At a time when Liberia had peacekeeping forces of the United Nations. The United Nations was basically running the country. Now we have a law that we need to review and amend. Let us do it together. Let us all stop pointing fingers and drawing blames. It was good we have it but like the issue of the tripartite, when I became the Minister of Labour, 2020, I do have my own concerns. Declare a certain sector essential or not essential – but that's the law. What we need to do is forget a unified trade union with a legitimate leadership and we get engaged together, but not as it is fragmented. So, all this because, well, we received it in good faith, but we want to know that they should also exercise endurance to ensure that the LLC has a legitimate leadership. It has so many trade unions right now because of the fragmentation, the Government is dealing with trade unions, individually. We are not dealing with LLC as a unit because the Court ordered new elections – it has notified those who were elected. So, the ILO is invited to come to Liberia so that a representative be part of the Committee that is responsible to superintend the elections of the Nigerian Labour Congress. Once we achieve that, every other thing would not be an issue.

Worker members – We thank the Government of Liberia for the information provided. We also thank all those who took the floor to throw more light on the situation in Liberia with respect to the application of Convention No. 87.

Indeed, we urge the Liberian Government to take the discussions of this Committee as they have said, in good faith, and ensure that social partners have an opportunity to contribute. We have raised serious violations with respect to Liberia's application of the Convention in law and in practice, under the guidance of the ILO.

We have raised serious violations with respect to Liberia's application of the Convention and we are deeply concerned at the lack of progress since our last examination of the case in 2022. The Government of Liberia must demonstrate its commitment to the principles and rights enshrined in the Convention by fully implementing the recommendations and conclusions adopted by the supervisory bodies of the ILO and by this Committee and by bringing its law and practice in line with Convention No. 87, in full consultation with the social partners.

We also want to welcome the Government's indication that they are ready to address the matters raised by the Committee of Experts and urge the Government to be guided by the long-standing guidance of the supervisory bodies, including the Committee of Experts with respect to the full exercise of the rights protected in the Convention by workers in essential services in the strict sense of the term.

In particular, we call on the Government to do the following:

- Ensure that all workers are able to exercise their labour rights under the Convention in an environment of respect for civil liberties.
- Register the NAHWUL as a trade union organization without further delay and provide additional information to the Committee of Experts on any pending allegations as well as information to the Committee on Freedom of Association concerning Case No. 3202.
- Review the Decent Work Act and any other related legislation to ensure that all workers, with the sole exception of the police and the armed forces, are able to exercise their right to form or join a trade union of their choice. In particular, ensure that public sector workers and civil servants enjoy the rights and guarantees set out in the Convention.
- Provide information to the Committee of Experts, on provisions drafted or envisaged for enactment and the time frame expected for such an enactment.

- Review the law to ensure that officers, members of the crew and any other person employed or in training on vessels are able to exercise their rights under the Convention, and to provide information to the Committee of Experts on how the rights are ensured to maritime workers, including trainees.
- Review section 45.6 of the Decent Work Act to ensure that the right to establish organizations to defend their occupational interests is fully recognized to foreign workers both in law and practice.
- Review the Decent Work Act to ensure that the designation of essential services is done in line with Convention.

Lastly, the Government must provide information to the Committee of Experts, by 1 September 2023, on all the measures being taken to comply with its obligations under the Convention and any developments in this regard. We call on the Government of Liberia to accept a direct contacts mission.

Employer members – The Employers would once again like to thank all the speakers who took the floor and shared their interventions and in particular the Minister representing the Government of Liberia for both the written and the oral information provided today. We have taken note of all the submissions and we as Employers are confined to making conclusions and recommendations based on the specific observations of the Committee of Experts and, in this regard, the Employers would then recommend to the Government of Liberia to:

- Firstly, institute without delay an independent investigation into the allegations made by ITUC Africa about the dissolution of a trade union by a state-owned company and the harassment of trade union leaders and to provide information on the outcome;
- Enact measures, including dissuasive sanctions, to ensure that trade unions can only be dissolved by a judicial authority, only as a last resort for serious violations of law;

- Resolve the registration of the NAHWUL as a trade union organization without further delay;
- Review the Decent Work Act and any other related legislation to ensure that all workers, including foreign workers, are able to exercise the right to form or join a trade union of their choice; and
- Ensure that public sector workers enjoy the protection of the freedom of association rights under the Convention.

We are encouraged by the Government's declared openness to accepting ILO technical assistance and in this regard would urge the Government to continue availing itself to this assistance to ensure full compliance with the Convention.

Chairperson – We have now concluded the discussion of this case. The conclusions will be adopted on Wednesday, 14 June in the afternoon.

The sitting was suspended at 11.40 a.m.

La séance est suspendue à 11 h 40.

Se suspende la sesión a las 11.40 horas.