

Committee on application of standards

Individual cases

2015

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DOUBLE FOOTNOTED CASES:

PLURINATIONAL STATE OF BOLIVIA

Minimum Age Convention, 1973 (No. 138)

(Ratification: 1997)

Conclusions

The Committee took note of the oral information provided by the Government representative on the issues raised by the Committee of Experts and the discussion that followed relating to the 2014 amendments to the Children's and Adolescents' Code which lowered the minimum working age from 14 to 10 years for self-employed workers and to 12 years for those children in an employment relationship, although the Government had specified a minimum age of 14 years for admission to employment or work upon ratification of Convention No. 138. These amendments also allowed all children under the age of 14 to undertake light work without setting a lower minimum age for such work. The discussions had also highlighted that these amendments would legally authorize children between 10 and 14 years to work, in addition to the approximately 800,000 children between 5 and 17 years of age who were in a child labour situation according to the last Child Labour Survey of 2008 which had been carried out by the National Institute of Statistics (INA) with ILO support.

The Committee also noted the detailed information provided by the Government outlining the economic and social policies put in place since 2006 which had produced positive results, such as a reduction in malnutrition and the end of illiteracy. The Government had also referred to a host of public policies adopted for the benefit of children and adolescents. In this context, the Children's and Adolescents' Code set a minimum working age of 14 years, but established an exception of 12 years for work carried out by children in an employment relationship, and of 10 years for work carried out by self-employed children. The exception to the minimum age was provisional, with a view to overcoming the problem of providing support to families in extreme poverty by 2020. The Government had stated that it did not contravene the Convention, but sought rather to broaden the protection of child workers under the new Code. Finally, the Committee noted the Government's had statement that it would seek international cooperation so that other countries, particularly those in the region, could share best practices for the eradication of child labour.

Taking into account the discussion that took place, the Committee urged the Government to:

- repeal the provisions of the legislation setting the minimum age for admission to employment or work and light work, in particular sections 129, 132 and 133 of the Children's and Adolescents' Code of 17 July 2014;
- immediately prepare a new law, in consultation with the social partners, increasing the minimum age for admission to employment or work in conformity with Convention No. 138;
- provide the labour inspectorate with more human and technical resources, as well as training, with a view to a more efficient and concrete approach in relation to implementing Convention No. 138 in law and practice;
- avail itself of ILO technical assistance to bring the legislation into compliance with the Convention; and
- report in detail to the Committee of Experts for its upcoming session.

The Government representative expressed disagreement with the conclusions and reserved the right to analyse them and send his observations at a later stage.

CAMBODIA

Worst Forms of Child Labour Convention, 1999 (No. 182)

(Ratification: 2006)

Conclusions

The Committee took note of the detailed written and oral information provided by the Government representative on the issues raised by the Committee of Experts and the discussion that ensued relating to the sale and trafficking of children for labour and sexual exploitation, compulsory labour exacted in drug rehabilitation camps, the significant number of children involved in hazardous work in agriculture, salt fields, construction, fisheries and the garment industry, as well as the high number of children not attending school, particularly secondary school.

The Committee noted the detailed information provided by the Government outlining the measures taken to combat the trafficking of children. These included measures to withdraw children under 18 from trafficking and to provide for their rehabilitation and social integration, as well as through the adoption of the Action Plan of the National Committee for Counter Trafficking 2014–18 adopted in early 2015. This National Plan of Action contributed to enhancing prevention and the criminal justice response to human trafficking, as well as protecting victims with gender- and age-appropriate support. The Committee also noted the Government's indication that children under the age of 18 are not detained in drug rehabilitation centres, but instead were sent to different organizations or orphanages for their rehabilitation in which they were not subjected to the obligation to perform work. Finally, the Committee noted the information provided by the Government on measures taken to implement the National Strategic Development Plan (2014–18) which aimed to expand access to early childhood, secondary and post-secondary education, as well as non-formal, technical and vocational education. As a result, the number of schools and students had increased gradually, enrolment rates at the primary school level had risen and drop-out rates at both the primary and secondary school levels had dropped. Finally, the Government had indicated that it had increased over the past two years the percentage of the national budget allocated to education.

Taking into account the discussion that took place, the Committee urged the Government to:

- in coordination with the social partners, increase its efforts and focus on preventing children from being exposed to the worst forms of child labour, including through increased labour inspections in the formal and informal economy;
- effectively enforce anti-trafficking legislation and provide information on the progress made in this regard, including on the number of investigations, prosecutions, convictions and penal sanctions applied;
- investigate and provide verifiable information on the extent to which forced labour, abuse and related practices occur in drug rehabilitation centres, including assurances that children are not detained in such centres or subject to forced labour and other related practices in any other institution in which they may be lawfully detained. In cases where children are found in such centres or similar institutions, they should be immediately released and provided with appropriate treatment; and
- within the context of the National Strategic Development Plan (2014–18), develop concrete plans to increase the retention rates of children in school, particularly at the secondary school level, and to report on the progress made.

The Committee invited the ILO to offer, and the Government of Cambodia to accept, technical assistance to accomplish the points above.

The Government representative took due note of the conclusions, which his Government would consider within the framework of the Action Plan of the National Committee of Counter Trafficking (2014–18). The data and information provided by the social partners regarding the number of children in the worst forms of labour first needed to be verified. Technical assistance from the ILO and other parties concerned would strengthen the capacity to eradicate the worst forms of child labour in Cambodia, and his Government would keep the ILO informed of progress in that regard.

CAMEROON

Worst Forms of Child Labour Convention, 1999 (No. 182)

(Ratification: 2006)

Conclusions

The Committee noted the detailed oral information provided by the Government representative on the issues raised by the Committee of Experts and the discussion that ensued relating to the trafficking of children for labour and sexual exploitation, the absence of legislation prohibiting the use, procuring or offering of children for pornography or for illicit activities, the large number of children involved in hazardous work and the increase in the number of children at risk of the worst forms of child labour including HIV/AIDS orphans and child domestic workers.

The Committee noted the information provided by the Government representative outlining policies and programmes put in place to combat the sale and trafficking of children, as well as hazardous work by children. This included the adoption of a comprehensive action programme, the National Plan of Action for the Elimination of the Worst Forms of Child Labour (PANETEC) that was being undertaken in collaboration with the ILO–IPEC to remove children from such situations. The Government had established, within the framework of the PANETEC, a national committee, which was responsible for the elimination of child labour and its worst forms by 2017. The Committee also noted the Government's statement that measures would be taken within the framework of the PANETEC to address the situation of HIV/AIDS orphans and child domestic workers in order to protect them from the worst forms of child labour. The Committee observed that the Government had expressed its willingness to continue its efforts to eradicate such situations with the technical assistance and cooperation of the ILO.

Taking into account the discussion that took place, the Committee urged the Government to:

- urgently revise, in consultation with the social partners, the list of hazardous work established by Law No. 17 of 1969 in order to protect children under the age of 18 from engaging in dangerous activities, including working underwater and at dangerous heights;
- adopt and implement the Child Protection Code, which has been pending for almost a decade, in order to prohibit the use, procurement and offering of children for illicit activities;
- reduce the extremely high number of children below the age of 14 engaged in employment, including hazardous work, through: (a) a significant increase in the number of labour inspectors; (b) a significant increase in the resources allocated to them; and (c) the amendment of the Labour Code so as to limit the exceptions to the general prohibition against children working who are 14 years and below; and
- consistent with Presidential Decree No. 2001/041, and as required by Article 7(2)(c) of the Convention, ensure that children have access to free basic education and are therefore less vulnerable to the worst forms of child labour.

The Committee requested the ILO to offer, and the Government of Cameroon to accept, technical assistance in order to bring its laws and practices into line with Convention No. 182.

ERITREA

Forced Labour Convention, 1930 (No. 29)

(Ratification: 2000)

Conclusions

The Committee took note of the oral information provided by the Government representative on the issues raised by the Committee of Experts and the discussion that followed relating to the large-scale and systematic practice of imposing compulsory labour on the population for an indefinite period of time within the framework of the national service programme which encompassed all areas of civilian life and was therefore much broader than military service. These members of the national service also performed other duties, such as participating in the construction of roads and bridges, reforestation activities, soil and water conservation and activities aimed at food security. The obligation to perform compulsory national service was stipulated in the Proclamation on National Service of 1995 and the Warsai Yakaalo Development Campaign of 2002. The discussions had also highlighted that workers who refused to carry out work within the framework of the national service were faced with arbitrary arrest and detention and imprisonment in inhumane conditions.

The Committee noted the Government's indication that its national laws were compatible with the requirements of Convention No. 29 since compulsory national service, normal civic obligations, communal services and services rendered in case of emergency could not be considered as forced labour. The Government highlighted that the ongoing border conflict and the absence of peace and stability had affected the labour administration of the country. In view of the "no peace, no war" status, it was not possible to implement the final and binding decision of the Eritrea–Ethiopia Boundary Commission. Moreover, there were unpredictable weather conditions which further contributed to a "threat of war and famine". In view of these specific circumstances, the exceptions in Article 2(2) of Convention No. 29 relating to cases of emergency applied, which justified the prolongation of the duration beyond the stipulations in the Proclamation on National Service of 1995 and the adoption by the National Assembly in 2002 of the Warsai Yakaalo Development Campaign. The cases of compulsory services were strictly limited to the requirements of the current situation and community interests, and were not used for the benefit of private companies or individuals. The Government had no intention of using national service in all-round activities and to extend the service duration indefinitely. Despite the threat of war and famine, the Government was demobilizing conscripts due to health and other social issues. Finally, the Committee noted the Government's statement that it wished to avail itself of ILO technical assistance.

Taking into account the discussion that took place, the Committee urged the Government to:

- accept ILO technical assistance in order to fully comply with its obligations under Convention No. 29;
- amend or revoke the Proclamation on National Service and the Warsai Yakaalo Development Campaign of 2002 to bring to an end forced labour associated with the national service programme, and ensure the cessation of the use of conscripts in practice in line with Convention No. 29; and
- immediately release all imprisoned "draft evaders" who refused to participate in conscription exacted in contravention of Convention No. 29.

The Government representative said that he could not accept the allegations and misinformation concerning alleged child soldiers and extortion. He urged the ILO and the international community to assist in implementing the binding decision of the Eritrea–Ethiopia Boundary Commission.

BOLIVARIAN REPUBLIC OF VENEZUELA

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

(Ratification: 1982)

Conclusions

The Committee took note of the oral statements made by the Government representative and the discussion that followed.

The Committee observed that the issues raised in the report of the Committee of Experts related to the murder, detention and criminal prosecution of trade unionists, acts of violence and intimidation against FEDECAMARAS and its leaders, refusal to register trade union organizations, legislative provisions that were incompatible with the Convention, including provisions on the intervention of the National Electoral Council in trade union elections, and serious shortcomings in social dialogue with representative workers' and employers' organizations, despite the conclusions of the high-level tripartite mission (January 2014) and the plan of action approved by the Governing Body.

The Committee took note of the information provided by the Government representative to the effect that discussion of the case was clearly politically motivated and lacked any technical or legal footing to support the Committee of Experts' observations, as Venezuelan legislation had been the subject of a range of technical assistance from the ILO over several decades. He had added that the Constitution recognized trade union rights, including the right to strike; that there was no imprisonment for engaging in trade union activities; and that the last 15 years had seen greater trade union activity and freedom than any other period in the country's history. Allegations of trade union leaders being harassed were based on press reports, set-ups and lies. He had said that in the Bolivarian Republic of Venezuela there was comprehensive and inclusive social dialogue, but that FEDECAMARAS was pursuing a criminal economic war and conspiring against the legitimately constituted Government; the most representative trade union organizations refused to participate in round table dialogue with FEDECAMARAS as a result. He had said that a Federal Government Council for the Working Class currently existed, made up of 1,056 union officials; moreover, the President of the employers' organization FEDEINDUSTRIA had been appointed to form an employers' council to prepare a national production plan and had held meetings with employers' organizations representing 90 per cent of the country's enterprises. He had also underlined that dialogue had also taken place with organizations such as the Trade Union Confederation of the Americas (TUCA-CSA), the Confederation of Workers of Venezuela (CTV) and the Independent Trade Union Alliance (ASI) to seek solutions to the problems that had arisen. He had added that the Government had tackled the issue of violence in the construction sector and still hoped that the four confederations would confirm the meeting to which the Government had invited them in order to draw up codes of conduct. Finally, he had denied that CTV elections had been obstructed and that the National Electoral Council was interfering in trade union elections.

Taking into account the discussion in this case, the Committee urged the Government to:

- comply without further delay with the conclusions of the tripartite high-level mission which had visited the Bolivarian Republic of Venezuela in January 2014 and the proposed plan of action;
- immediately cease acts of interference, aggression and stigmatization against FEDECAMARAS, its affiliated organizations and their leaders perpetrated by the Government;
- end impunity for crimes committed, especially against workers in the construction sector, including by adopting a clear and efficient recruitment system;
- review the practice of providing lists of trade union members to the public authorities;
- end the intervention of the National Electoral Council (CNE) in trade union elections;
- establish social dialogue without further delay through the establishment of a tripartite dialogue round table, under the auspices of the ILO, that is presided over by an independent chairperson who has the trust of all sectors, that duly respects the representativeness of employers' and workers' organizations in its composition, that meets periodically to deal with all matters relating to industrial relations decided upon by the parties, and that includes the holding of consultations on new legislation to be adopted concerning labour, social or economic matters (including within the framework of the Enabling Act) among its main objectives; and
- report in detail to the Committee of Experts at its next session in November–December 2015.

The Government representative did not agree with the conclusions which had not taken into account the information provided by the Government or the discussions that had taken place in the Conference Committee, including in particular the favourable interventions by over three-quarters of participants.

OTHER INDIVIDUAL CASES¹

ALBANIA

Worst Forms of Child Labour Convention, 1999 (No. 182)

(Ratification: 2001)

Conclusions

The Committee took note of the detailed oral information provided by the Government representative on the issues raised by the Committee of Experts and the discussion that ensued relating to the prevalence of the trafficking of children for sexual exploitation from Albania, which continued to be a source country, as well as the high number of street children and Roma children with low levels of education involved in the worst forms of child labour including trafficking, begging and work on the streets.

The Committee noted the Government's statement outlining laws and policies put in place to combat the sale and trafficking of children for sexual exploitation, as well as the action programmes that were being undertaken to remove children from such situations. The Committee further noted the Government's indication that it was carrying out initiatives to raise awareness amongst various stakeholders to combat the sexual exploitation of children and trafficking for that purpose. The Committee also noted the Government's statement that it had undertaken various programmatic measures to identify and protect children from the Roma and Egyptian communities from the worst forms of child labour, including begging and street work. This included the implementation of an inter-ministerial initiative in 2014 entitled "Support for families and children living on the street", which had removed a certain number of children from the street and provided for their social integration. In addition, and given the low school attendance rates of Roma children, the Government had adopted the Action Plan for Children and the Action Plan for the Decade of Roma Inclusion which aimed to increase the attendance of Roma children in compulsory education. Lastly, the Committee noted the Government's statement that while there were implementation issues in Albania, its legislative framework was in line with the Convention and the political will of the Government clearly existed to address the implementation gaps.

Taking into account the discussion that took place, the Committee urged the Government to:

- continue removing 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;
- continue taking urgent measures to stop trafficking, the practice of forced begging and work on the streets, in conjunction with UNICEF, and report on these measures;
- increase the number of labour inspectors as well as the resources allocated to them; train inspectors on child labour under national and international law and on methods to effectively monitor and enforce these laws;
- increase the number of police investigators for child rights;
- effectively enforce anti-trafficking legislation, take measures for effective implementation in practice and provide information on the progress to the Committee of Experts made in this regard, including on the number of investigations, prosecutions, convictions and penal sanctions applied; and
- re-initiate collaboration with ILO-IPEC, which ended on 31 December 2010.

The Government representative indicated that the Government would take the necessary measures to address the issues raised by the Committee.

¹ The cases are listed in the in the French alphabetical order of Member States.

ALGERIA

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

(Ratification: 1962)

Conclusions

The Committee took note of the information provided by the Government and the discussion that ensued on the matters pending before the Committee of Experts, including restrictions on the right to form trade union organizations, federations and confederations and ongoing allegations of delays and obstacles put in the way of trade union registration. The Committee further observed that there were outstanding allegations of violence and intimidation against trade union activists and noted the Government's statements on these issues.

The Committee noted the Government's statement that, drawing inspiration from international labour standards and recommendations, the outstanding legislative issues in this case were being addressed within the framework of the ongoing revision of the Labour Code, which included an in-depth consultation with the social partners with a view to achieving consensus. The Government advised that a draft new Labour Code has been prepared in consultation with the social partners.

As regards trade union registration, the Government indicated that the legislative formalities in this regard were simple and without constraint. Ninety-five trade union and employer's organizations are registered in the country; nine in the last two years. As regards specific allegations raised relative to the SNAPAP and SNAPEST, the Government indicates that both organizations are registered and carry out their activities freely. The conflict in the executive body of the SNAPAP was resolved by the judicial authority, a decision in which it could not interfere.

Taking into account the discussion of the case, the Committee requests the Government to:

- provide detailed information regarding the new draft labour code including providing a copy of the same for analysis and consideration in relation to the application of Convention No. 87;
- ensure that there are no obstacles to the registration of trade unions in law or in practice in conformity with Convention No. 87;
- act expeditiously to process pending applications for trade union registration and notify the Committee of Experts;
- reinstate employees of the Government, terminated based on anti-union discrimination; and
- report in detail to the Committee of Experts for its up-coming session.

BANGLADESH

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

(Ratification: 1972)

Conclusions

The Committee took note of the statements made by the Government representative and the discussion that ensued. The Committee noted that the outstanding issues raised by the Committee of Experts concerned numerous allegations of violence and reported harassment of trade unionists and trade union leaders and the absence of progress in investigations; delay in registration of new trade unions; the need to ensure freedom of association rights to workers in export processing zones (EPZs); and continued obstacles to the full exercise of freedom of association created by several provisions of the 2006 Bangladesh Labour Act.

The Committee noted the information provided by the Government that two suspects have been identified in the trade union leader murder case. They are still at large but the case has been classified as a sensitive one to ensure regular monitoring and an expeditious trial. The Government stated that 182 complaints of unfair labour practices were received during the period between 1 January and 30 April 2015, 177 of which were settled and criminal cases filed with respect to five. A helpline for workers was established on 15 March 2015 and is expected to improve transparency and governance in dealing with complaints. The Government indicated that 7,495 trade unions and 172 federations were now registered, with a total of 450 trade unions in the ready-made garment sector, and an online registration system has been introduced to ease the registration process. A website has been developed for disseminating reports on registration and is being made more user-friendly. After adoption of the BLA amendments in 2013, the Government acknowledged that the major task incumbent on it was the formulation of the corresponding rules which has required time and several rounds of consultations. The rules, following discussion and consensus in the Tripartite Consultative Council, were now being sent to the Ministry of Law for vetting prior to publication as a Gazette notification. Similarly, the draft Bangladesh EPZ Labour Act was sent to the Ministry of Law for vetting. The Government was engaged in awareness and capacity building to ensure freedom of association through effective trade unionism to over 2,700 worker leaders since 2013. The Government concluded by expressing its appreciation for the constructive engagement of the ILO and development partners in promoting rights at work.

The Committee takes note that the rules to implement the 2013 Labour Act are now two years overdue, while also taking note of the information from the Government that the rules have been drafted and are expected to be enacted shortly. The Committee recalls that it has previously called on the Government to ensure that workers in EPZs are able to exercise freedom of association in law and in practice and once again calls on the Government to pass legislation which guarantees to workers in EPZs the rights protected by Convention No. 87. The Committee also takes note that the Committee of Experts regret that no further amendments have been made to the BLA. Finally, the Committee takes note of reports of anti-union discrimination, including acts of violence and dismissals.

Taking into consideration the discussion, the Committee urged the Government to:

- undertake amendments to the 2013 Labour Act to address the issues relating to freedom of association and collective bargaining identified by the ILO Committee of Experts, paying particular attention to the priorities identified by the social partners;
- ensure that the law governing the EPZs allows for full freedom of association, including to form trade unions and to associate with trade unions outside of the EPZs;
- investigate as a matter of urgency all acts of anti-union discrimination, ensure the reinstatement of those illegally dismissed, and impose fines or criminal sanctions (particularly in cases of violence against trade unionists) according to the law; and finally
- 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.

The Committee urges the Government to accept a high-level tripartite mission this year to ensure compliance with the recommendations.

BELARUS

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

(Ratification: 1956)

Conclusions

The Committee took note of the written and oral information provided by the Government representative and the discussion that ensued. The Committee took note of the comments of the Committee of Experts concerning restrictions on the right of workers to form organizations of their own choosing in Decree No. 2, obstacles to the right to participate in peaceful demonstrations under the Law on Mass Activities and certain prohibitions on the use of foreign gratuitous aid under Presidential Decree No. 24. The Committee recalled the outstanding recommendations of the 2004 Commission of Inquiry and the need for their rapid and effective implementation.

The Committee noted that the Government has continued to follow up concrete proposals formulated by the direct contacts mission through ILO technical assistance related to a series of activities aimed at improving social dialogue and cooperation between the tripartite constituents at all levels, including most recently through the seminar on collective bargaining and cooperation at the enterprise level in the context of pluralism. The Committee noted the indication that Presidential Decree No. 4 was adopted on 2 June 2015, amending Decree No. 2 to replace the 10 per cent minimum membership requirement with only ten workers. The Government emphasized the positive role played by the Tripartite Council for the Improvement of Legislation in the Social and Labour Sphere in this regard. The Government further spoke of the amendments agreed to the Regulations of the Tripartite Council on 8 May 2015, which would significantly expand its mandate. The next activity within the framework of the direct contacts mission's proposals is expected to be a tripartite seminar on dispute resolution and mediation mechanisms.

The Committee expresses its deep concern that, ten years after the Commission of Inquiry's report, the Government of Belarus has failed to take measures to address most of the Commission's recommendations. Workers continue to face numerous obstacles in law and in practice to the full exercise of their right to form or join trade unions of their own choosing. The Committee expects full compliance with the recommendations of the Commission of Inquiry urgently.

Taking into account the discussion, the Committee urges the Government to:

- comply in full with the rest of the recommendations of the 2004 Commission of Inquiry before the next Conference, and to report to the Committee of Experts prior to their 2015 Session;
- provide information to the Committee of Experts related to the functions and role of the Tripartite Council;
- ensure, in light of reports of discrimination and harassment of trade union leaders and activists, that such activity is immediately brought to an end; and
- accept substantially increased technical assistance in the country, the aim of which is to assist in compliance with the recommendations of the Commission of Inquiry in the shortest time possible.

A Government representative took note of the Committee's conclusions and indicated that his Government would consider them and subsequently provide the requested information. The Government of Belarus would continue to cooperate with its social partners to promote the rights of workers. The Government representative also indicated that his Government would welcome ILO technical assistance and would continue to cooperate with the Organization.

REPUBLIC OF KOREA

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

(Ratification: 1998)

Conclusions

The Committee took note of the oral and written information provided by the Government representative on the issues raised by the Committee of Experts and the discussion that ensued relating to: the effective protection of migrant workers, in particular with regard to workplace movements, the protection of non-regular workers, particularly women working part time and short term; the measures taken to promote equality of opportunity and treatment of women and men in employment, and possible discrimination, including dismissals, against elementary, primary and secondary schoolteachers on the basis of political opinion.

The Committee noted the information provided by the Government describing the range of services and training provided to migrant workers, the measures to remove limitations for migrant workers under the Employment Permit System to change workplace, and to improve their conditions of work. The Government also provided information on the application since September 2014, of the punitive monetary compensation system to address repeated and wilful discrimination against fixed-term, part-time and dispatched workers, and the support provided, as of 2015, to companies to convert non-regular workers into regular workers. The Government further highlighted measures to enhance the employability of women through comprehensive employment services and the introduction of childcare services to support part-time working parents. The Government provided statistical information: showing a marked increase in the employment rate of women, on the results achieved through affirmative action measures, and on the use of childcare leave and the reduced working hours system. The Government also provided recent statistics on the number of non-regular workers in the public sector who became workers with open-ended contracts in 2013 and 2014, and the inspections carried out in 2014 in workplaces employing migrant workers and a large number of fixed-term and dispatched workers, including violations recorded, correction orders issued in discrimination cases, and direct employment ordered.

The Committee noted that the Government has taken various measures to review, update and enact new legislation to address labour market inequalities, as well as to reduce challenges relating to discrimination. The Government is requested to continue to report to the Committee of Experts at its next session so that the Experts can analyse the situation.

The Committee notes that long-standing concerns in relation to the application of the Convention still remain regarding migrant workers, gender-based discrimination and discrimination relating to freedom of expression, and need to be addressed.

Taking into account the discussion, the Committee urges the Government, in particular:

- concerning workplace flexibility for migrant workers, to review, in consultation with workers' and employers' organizations, the impact of the new regulations and, if necessary, make adjustments to programmes to ensure appropriate protection of the foreign worker labour force;
- to ensure that the rights of migrant workers are properly enforced regarding workplace changes and working hours, including through regular workplace inspections and the publication of annual reports;
- concerning the protection against discrimination based on the grounds of gender and employment status, in particular with respect to non-regular workers, including women working part time and short term, to review, in consultation with workers' and employers' organizations, the impact of reforms and continue to submit relevant data and information to enable the Committee of Experts to evaluate if the protection is adequate in practice;
- with respect to the promotion of equality of opportunity and treatment of men and women in employment, to continue to monitor the participation of women in the labour market and provide the Committee of Experts with relevant data and information before its next session; and
- concerning possible discrimination against teachers on the basis of political opinion, to provide more detailed information on this issue to allow the Committee of Experts to make a solid assessment of the compliance of the related laws and practice with the Convention.

The Committee invited the ILO to offer, and the Government of the Republic of Korea to accept, technical assistance to accomplish the recommendations.

EL SALVADOR

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

(Ratification: 2006)

Conclusions

The Committee noted the oral information provided by the Minister of Labour and Social Welfare and the discussion that followed.

The Committee observed that the issues raised by the Committee of Experts related to: the murder of a trade union leader; observations by the ITUC and IOE; lack of autonomy of workers' and employers' organizations to select their representatives on joint and tripartite bodies; legislative restrictions on the right to establish trade union organizations for certain categories of public employees; requirement for the employer to certify that the founding members of a trade union are employees; requirement to be a national of El Salvador by birth in order to hold trade union office; and, in the event of refusal of trade union registration, the existence of an excessive waiting period before submission of a new application.

The Committee noted that the Minister of Labour and Social Welfare indicated that the Government condemned the killing of trade union leader Mr Victoriano Abel Vega, that it was still being actively investigated at present by the Prosecutor's Office, which was stepping up inquiries to elucidate the facts with the express intention of preventing the crime from going unpunished. The Government was maintaining a constant social dialogue with all social sectors including private enterprise but, contrary to hegemonic practices in the past, with all employers' organizations – small, medium and large – and also with all trade union organizations, including those which had been excluded in the past. Tripartite social dialogue existed in 19 autonomous public institutions and, further to the major reform undertaken and in the light of regulatory aspects, there was a further opening up for the participation of all organizations. With regard to the problems of constituting the Higher Labour Council, the Government representative referred to numerous initiatives and meetings instigated by the Ministry up to June 2015 to resolve the impasse on the basis of democratic, inclusive and representative practices and the regulations in force. She indicated that the existing problem was due to disagreement on the part of the trade union representation, which was divided into two blocks supporting two lists of elected representatives and that the impasse had not been caused by the Government. The Presidential Commission for Labour Affairs which focused mainly on the public sector was a response to the request from the Workers to have a mechanism for direct communication in relation to the Government's Five-Year Plan; and that this labour forum would not replace the mechanisms for tripartite participation. The Government had achieved changes in the legislation in order to guarantee the trade union rights of public employees and in the past five years the number of active trade unions had risen to 464, with 99 unions in the public sector and 35 in autonomous institutions. According to the practice followed by the Ministry of Labour and Social Welfare, trade union organizations whose registration had been refused could submit a new application the following day. The Government had noted the importance of the provisions and issues referred to by the Committee of Experts and had pledged to ensure compliance with the latter's observations in conformity with the legislation in force. Action was being taken with regard to an automated record of participation of all unionized workers in relation to the various reforms requested by the Committee of Experts.

The Committee recalled the emphasis placed during the discussion on the fact that a climate of violence and insecurity was extremely damaging to the exercise of trade union activities. Moreover, it recalled that the Convention concerned the right of all workers and employers to establish and join the organizations of their own choosing and for their organizations to carry out their activities without government interference.

Taking into account the discussion in this case, the Committee requested the Government to:

- take all necessary measures without delay to identify those responsible for the murder of Victoriano Abel Vega and to punish those guilty of this crime;
- ensure the full autonomy of employers' and workers' organizations in the joint and tripartite decision-making bodies, which necessitated the convocation and immediate setting up of the Higher Labour Council where the legal reforms necessary to guarantee this autonomy should be consulted. In order to achieve this, the Government should abstain from requesting consensus from the trade union confederations and federations for the nomination of their representatives to the Higher Labour Council;
- revise on a tripartite basis in the Higher Labour Council Presidential Decree No. 86, which created the Presidential Commission for Labour Affairs;
- accept ILO technical assistance with a view to bringing its legislation and practice into conformity with the provisions of the Convention; and

- submit a report to the Committee of Experts on the progress made in achieving the full application of the Convention for consideration at its next meeting in November 2015.

The Government representative indicated that the Government had noted the conclusions and would continue to work with a view to achieve compliance with the Convention and progress in relation to labour rights. The Government was committed, through democratic practices and openness for dialogue, to solve the disagreements, in conformity with the national legislation, and reiterated the Government's interest to avail itself of ILO technical assistance.

SPAIN

Employment Policy Convention, 1964 (No. 122)

(Ratification: 1970)

Conclusions

The Committee took note of the detailed written and oral information provided by the Government representative on the discussion that followed on the issues raised by the Committee of Experts related to the measures adopted to mitigate the impact of the crisis, the situation of a persistent unemployment which principally affects young persons and the labour reforms adopted which included programmes to coordinate educational and training measures with employment opportunities and to improve skills levels.

The Committee noted the information provided by the Government representative concerning the comprehensive economic and employment measures taken by the Government to overcome the jobs crisis and the labour reforms initiated in March 2012 in line with the concept of flexicurity prioritized in the European Union employment guidelines. The Committee noted the active labour market measures taken, such as the Spanish Employment Activation Strategy 2014–16, the Single Employment Portal and the Common Portfolio of Services adopted in January 2015 to promote the use of public and private employment services. Youth employment remained extremely high and an Extraordinary Programme for Employment Activation was adopted in December 2014 specifically targeting workers whose needs arising out of the jobs crisis were particularly acute, such as the long-term unemployed with family responsibilities. The Government representative also provided information on positive employment data indicating that, in the first quarter of 2015, the number of unemployed persons fell by 488,800 when compared with the previous year, and that 504,200 jobs were created in that same quarter.

The Committee took note of the complete information provided by the Government on the active employment measures that were being implemented in the framework of the Economic and Employment Strategy adopted in the context of the European Union to combat unemployment and the social consequences of the crisis.

Taking into account the discussion, the Committee requested the Government to:

- continue a constructive social dialogue, taking fully into account the experience and views of the social partners with their full cooperation in formulating and enlisting support for such policies concerning the objectives expressed in Article 1 of the Convention;
- consistent with the Convention, evaluate, together with the social partners, the results of employment policy and take such steps as may be needed including, when appropriate, the establishment of programmes for the implementation of the employment policy;
- focus on guaranteeing the largest consensus on programmes linked to vocational training and continue the dialogue with the social partners on vocational training for youth and the unemployed on the basis of strong public services; and
- submit a report to the Committee of Experts in 2015 on the application of the Convention.

GUATEMALA

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

(Ratification: 1952)

Conclusions

The Committee took note of the oral information provided by the Minister of Labour and Social Protection on the issues raised in the Report of the Committee of Experts and the discussion that followed.

The Committee observed that the issues raised by the Committee of Experts principally related to: (i) numerous murders of, and acts of violence against, trade union leaders and members and the need for these events to be properly investigated and punished and for rapid and effective protection to be given to trade union leaders and members at risk; (ii) the need to bring various aspects of domestic legislation into conformity with the provisions of the Convention, including the requirements for forming industrial trade unions, the conditions for election as a union leader, and the exclusion of various categories of public sector workers from enjoying the right to organize; and (iii) recurrent comments from trade union organizations denouncing, on the one hand, the practices of the Ministry of Labour and Social Protection, which allegedly made it difficult to register trade union organizations freely, and, on the other, serious problems with the application of the Convention in relation to trade unions' rights in the *maquila* sector.

The Committee took note of the Minister of Labour's emphasis on the Government's commitment to decent work and freedom of association, as could be seen in the following results related to the application of the Convention: (1) the Unit for Crimes against Trade Unionists of the Office of the Public Prosecutor was now centralizing the investigation of all such cases (70 in total); (2) a general instruction on investigating and prosecuting these crimes had been agreed between the Office of the Public Prosecutor and a technical group from the trade union sector and was now in effect; (3) of the 58 cases of violent death under investigation, convictions had been handed down in eight and ten arrest warrants had been issued in other cases, while an arrest warrant had been requested in one further case; (4) in Guatemala, as in other countries in the region, there was a problem with criminality and violence affecting the population in general; (5) the Office of the Public Prosecutor and the International Commission against Impunity in Guatemala (CICIG) had signed a collaboration agreement in 2013 to build investigation capacity; (6) from an examination of 56 criminal cases, it appeared that a significant number of victims were not members of trade union organizations and that in the majority of cases the motives were unrelated to trade unionism (gang related, extortion, etc.); (7) 25 requests for protection of trade unionists had been submitted under the protocol for the implementation of immediate preventive security measures to protect human rights defenders in Guatemala; (8) an emergency telephone line had been set up to deal directly with threats of violence against trade unionists; (9) at present, failure to abide by court rulings could give rise to criminal proceedings and hundreds of breaches had been reported; and (10) Congress was seeking to strengthen the power of the labour inspectorate to impose penalties for labour violations. In addition, tripartite dialogue had been strengthened. In that regard, a Special Committee on the Handling of Conflicts referred to the ILO in the areas of freedom of association and collective bargaining had been set up and begun examining cases. In addition, the Government had submitted draft legislative reforms to the country's tripartite body relating to the comments of the Committee of Experts. When an agreement had not been reached, the draft, including the comments of the social partners, had been transmitted to Congress. The Guatemalan tripartite delegation had agreed to meet during the Conference to address all the above issues at once and make progress. Lastly, he expressed appreciation for the technical assistance and training for public institutions provided by the Special Representative of the ILO Director-General in Guatemala and requested that the Special Representative's office be strengthened.

Bearing in mind the discussion, the Committee requested the Government to:

- take note of the Committee's regret at the murders of unionized workers referred to in the observation;
- apply the roadmap to combat violence and impunity, and in particular, to: (i) reach an agreement with CICIG on investigating cases of trade union deaths with a view to arresting and charging those responsible, including the instigators; (ii) strengthen the Unit for Crimes against Trade Unionists; (iii) guarantee that meetings of the Trade Union Round Table for Comprehensive Protection would be held, with the participation of the social partners; (iv) reinforce the programme to protect trade unionists and allocate additional financial resources to cover all leaders requiring protection; (v) guarantee the application of the Framework Agreement for cooperation among the various international agencies in order to facilitate exchange of information on crimes against trade unionists; (vi) ensure that investigators and prosecutors within the Public Prosecution Services receive training, in collaboration with the ILO; and (vii) guarantee the functioning of the emergency telephone line set up in May 2015 for submitting complaints of failure to respect freedom of association;

- institutionalize participation by the social partners in formulating policy within the various social dialogue bodies, particularly the Economic and Social Council, the Tripartite Commission on International Labour Affairs and the Special Committee on the Handling of Conflicts referred to the ILO, in order to find solutions to problems arising in practice on labour matters, and, in consultation with the most representative workers' and employers' organizations, prepare a bill based on the comments of the Committee of Experts and submit it to Congress as a matter of urgency and bring domestic legislation into conformity with the Convention, as stipulated in point 5 of the roadmap; and
- continue activities with the Special Representative of the ILO Director-General, with technical cooperation support, so that the Special Representative can prepare a report on the implementation of the roadmap, to be submitted to the Committee of Experts at its next meeting and to the Governing Body before its November 2015 Session.

The Committee requested the ILO to continue supporting the Office of the Special Representative of the ILO Director-General in Guatemala.

The Government representative took due note of the conclusions. He reiterated the commitment made by the Minister of Labour who stated that the Government will continue to follow up on these issues with due consideration.

HONDURAS

Labour Inspection Convention, 1947 (No. 81)

(Ratification: 1983)

Conclusions

The Committee noted the oral information provided by the Government representative on the issues raised by the Committee of Experts and the discussion that ensued relating to the strengthening of the labour inspection system, including through: the legal reform; the availability of sufficient financial, human and material resources, including transport facilities; the conduct of a sufficient number of routine inspection visits throughout the country; the establishment of targeted inspection plans; the capacity building and training of labour inspectors; the need to grant labour inspectors adequate conditions of service, including sufficient remuneration to ensure their impartiality and independence from any improper external influences; the need to give effect in practice to the principle of free access of labour inspectors to workplaces; and the need to increase the penalties for labour law violations, including the obstruction of labour inspectors, and ensure their application through effective enforcement mechanisms.

The Committee noted the information provided by the Government relating to a plan of action to strengthen the labour inspection system. The plan had been approved in a tripartite forum and included several initiatives, such as increasing the number of labour inspectors to 200 by 2016, and improving the financial and material resources of the regional labour inspection services. The Committee further noted the proposed reform of the Labour Code and the proposed adoption of a new general labour inspection law governing the career structure and recruitment of labour inspectors, and providing for increased fines for labour law violations, including the obstruction of labour inspectors in their duties. The Committee also noted the information on the initiation of ILO technical assistance in late June 2015 in the form of an audit of the functioning of the labour inspection system further to a request by the Government.

The Committee noted the Government's intention, in consultation with the most representative workers' and employers' organizations, to reform the Labour Code, to enact a general labour inspection law, and to undertake an audit of the labour inspection system which would be carried out by the ILO.

Taking into account the discussion, the Committee requested the Government to:

- consider including the following among its planned reforms: professionalizing labour inspection staff; making inspection tasks more specialized; pursuing a multidisciplinary approach; increasing the wage budget and improving logistics; and ensuring that penalties for breaking the law are increased so as to be dissuasive and are determined through pre-established, objective procedures that guarantee all parties the right to a fair hearing;
- substantially increase the number of inspectors, particularly in areas which are underserved at present, and ensure that they are provided with the material resources needed to carry out their work;
- develop a proactive inspection plan to focus on sectors where there are regular violations of labour legislation, including the informal sector, agriculture and *maquilas*;
- continue receiving technical assistance from the ILO in order to overcome the remaining legal and practical obstacles to applying the Convention; and
- submit a detailed report on the application of the Convention to the next session of the Committee of Experts.

INDIA

Labour Inspection Convention, 1947 (No. 81)

(Ratification: 1949)

Conclusions

The Committee noted the oral and written information provided by the Government representative on the issues raised by the Committee of Experts and the discussion that ensued. They related to: the need for a sufficient number of labour inspectors and adequate labour inspections at the central and state levels including in the formal and informal economy; the review and consolidation of a number of labour laws; the introduction of a “self-inspection scheme”; the need to ensure unrestricted access of labour inspectors to workplaces without prior authorization; the free initiative of labour inspectors to conduct labour inspections without previous notice considering the generation of computerized lists identifying the companies to be inspected; the effective application of labour laws in SEZs and the IT and ITES sectors; the effective enforcement of sufficiently dissuasive penalties; and the availability of statistics as required under the Convention to enable an assessment of the functioning of the labour inspection system.

The Committee noted the information and explanations provided by the Government representative that there were no proposed legislative amendments to exclude a large number of workers from the protection of basic labour laws; that the inspection system did not provide for limitations in terms of the number and thoroughness of inspections and the enforcement of the legal provisions, but that this system was designed to increase accountability and reduce arbitrariness. Self-certification by employers was an additional means to ensure compliance, but was not a substitute for labour inspections. The Government also indicated that the Special Economic Zones Act, 2005, did not preclude the application of labour laws in SEZs and that the Development Commissioner responsible for their enforcement had the necessary independence despite his additional role of attracting foreign investment. Moreover, the IT and ITES sectors were subject to labour inspections in the same way as other sectors. The Committee also noted the Government’s indications that the ILO technical assistance had been highly appreciated in the framework of the current legislative reforms and that it was willing to continue to avail itself of ILO technical assistance.

Taking into account the discussion, the Committee requested that the Government:

- Provide, in relation to the Convention, the following information before the next meeting of the Committee of Experts in 2015:
 1. Detailed statistical information covering at the central and state levels all the matters set out in Article 21 (including the number of staff of the respective labour inspectorates) with a view to demonstrating compliance with Articles 10 and 16 of the Convention and specifying:
 - (a) as far as possible the proportion of routine to unannounced visits; and
 - (b) information in relation to the proportion of routine and unannounced visits in all SEZs.
 2. An explanation as to the arrangements for verification of information supplied by employers making use of self-certification schemes.
 3. Information explaining the division of the responsibility of labour inspection between the state and central spheres for each law and regulation in question.
 4. Information explaining, by reference to the relevant statistics, the extent to which the number of labour inspectors at the disposal of central and state government inspectorates are sufficient to ensure compliance with Articles 10 and 16 of the Convention.
 5. Detailed information on compliance with Article 12 of the Convention with regard to access to workplaces, to records, to witnesses and other evidence, as well as the means available to compel access to such. Provide statistics on the denial of such access, steps taken to compel such access, and the results of such efforts. This includes SEZs, the information for which should be separated from general information.
 6. Detailed information on health and safety inspections, undertaken by certified private agencies, including the number of inspections, the number of violations reported by such agencies, and compliance and enforcement measures taken.

- Review, with social partners, the extent to which delegation of inspection authority from the labour commissioner to the development commissioner in SEZs has affected the quantity and quality of labour inspections.
- In consultation with the social partners, ensure that the amendments to the labour laws undertaken at the central or state level comply with the provisions of the Convention, making full use of ILO technical assistance. Additionally, provide detailed information explaining all current proposals to labour laws and regulations that impact upon the system of labour inspection at the central and state level.

The Government representative said that the Government had taken note of the Committee's conclusions. The Government would provide all the requested information and statistics for the Committee of Expert's next session. He reiterated the Government's commitment to all ILO Conventions, particularly Convention No. 81, to continue to strive to achieve decent work conditions for all workers.

ITALY

Employment Policy Convention, 1964 (No. 122)

(Ratification: 1971)

Conclusions

The Committee took note of the detailed written and oral information provided by the Government representative and the discussion that followed in relation to the issues raised by the Committee of Experts related to employment policy measures to alleviate the impact of the crisis adopted in 2012–13 and which included: the monitoring of the measures implemented with the participation of the social partners; the high unemployment rate which reached 12.6 per cent in May 2014 and affected young people by a greater proportion; the continued differences in employment rates between northern and southern regions of the country, as well as the measures taken to promote productive employment through cooperatives.

The Committee noted the information provided by the Government representative indicating that the unemployment rate had been reduced to 12.4 per cent in April 2015 and the rate of unemployed young people aged 15–24 who were actively seeking employment had fallen to 40.9 per cent. The Committee also noted the information provided on the 2015 Jobs Act which included the establishment of a National Employment Agency, the revision of unemployment benefits as well as new provisions on the dismissal and reinstatement of workers, leading to an increase in the number of new open-ended contracts by 24.6 per cent with respect to the same period in 2014. More than 600,000 young people had joined the Youth Guarantee Programme launched in May 2014. The Government representative also reported on an Agreement reached between regions in January 2015 envisaging a National Framework of Regional Qualification to coordinate nationwide recognition to over 2,600 regional vocational qualifications.

Taking into account the discussion, the Committee requested that the Government:

- ensure, in consultation with the social partners, a comprehensive approach to employment policies in order to improve the employment situation and foster job-rich inclusive growth, in line with the Convention;
- ensure tripartite consultation on the development and implementation of employment policies, based on regularly updated labour market data, including on the number, kind, duration of employment, and youth and gender issues and regional disparities;
- examine the measures to promote productive and sustainable employment through cooperatives; and
- provide a detailed report to the Committee of Experts in 2015 on the issues raised in these conclusions.

KAZAKHSTAN

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

(Ratification: 2000)

Conclusions

The Committee deplored the total absence of a Government representative during the discussion of this case, despite its accreditation and presence at the International Labour Conference.

The Committee observed that the pending matters raised by the Committee of Experts concerned both restrictions on workers' freedom of association (including the right to organize of judges, firefighters and prison staff, the mandatory affiliation of sector, territorial and local trade unions to a national trade union association, the excessively high minimum membership requirement for higher-level organizations and the ban on receiving financial assistance from an international organization) and on employers' organizations (an excessive minimum membership requirement for employers' organizations and the adoption in 2013 of the Law on the National Chamber of Entrepreneurs which undermined free and independent employers' organizations and gave the Government significant authority over internal matters of the Chamber of Entrepreneurs).

The Committee noted the actions of the Government that had infringed both the freedom of association rights of workers' and of employers' organizations in violation of the Convention.

Taking into account the discussion and the failure of the Government to attend before the Committee, the Committee required that the Government:

- amend the provisions of the Law on the National Chamber of Entrepreneurs in a manner that would ensure the full autonomy and independence of the free and independent employers' organizations in Kazakhstan. The Committee requested the Office to offer, and urged the Government to accept, technical assistance in this regard;
- amend the provisions of the Trade Union Law of 2014 consistent with the Convention, including issues concerning excessive limitations on the structure of trade unions found in Articles 10 to 15 which limit the right of workers to form and join trade unions of their own choosing;
- amend the Constitution and appropriate legislation to permit judges, firefighters and prison staff to form and join a trade union; and
- amend the Constitution and appropriate legislation to lift the ban on financial assistance to national trade unions by an international organization.

As a result of the Government's failure to attend, the Committee decided to include its conclusions in a special paragraph of the report.

A Government representative apologized for the absence of the Government delegation during the discussion and informed that the delegation had only arrived in Geneva on 9 June 2015. He nevertheless wanted to express the Government's view on the case. Article 23 of the Constitution guaranteed freedom of association and the national legislation governed the activities of trade unions. In accordance with the national legislation, members of the armed forces, the judiciary and the police did not have the right to establish and join organizations. Civil servants, including those within the police, the armed forces and the judiciary, had a specific status under the law, since they had to ensure the proper functioning of the State. However, civilian workers in the armed forces and the police had the right to establish and join organizations. There were several trade unions of civilian workers, including staff working in the armed forces and the police. There was no impediment for the creation of new trade unions. In fact, section 14 of the Law on Public Associations only required a membership of three persons to form a first-level trade union. However, it was true that not many first-level unions had been established yet. In relation to the comments of the Committee of Experts about the requirements for the creation of local and regional trade unions, he indicated that a new law specifically provided that it was essential that trade unions were represented at the regional, local and enterprise levels. While a great number of trade unions existed in the country, there was no trade union unity, with trade unions being rather dispersed. Only branch and sectorial trade unions were able to conclude collective agreements, and over 600 trade unions at the local and regional level were not associated to them. However, at the national level there was no problem in this regard. Kazakhstan was a young country and needed more time to implement the internationally recognized principles. While the existing laws did not provide for impediments to constitute trade unions, new laws could be adopted where necessary, in accordance with international standards and international best practice. The Government was committed to improve the situation and would take into account the discussions in, and the conclusions of, the Committee.

MAURITIUS

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

(Ratification: 1969)

Conclusions

The Committee took note of the statements made by the Government representative and of the discussion that ensued.

The Committee observed that the matters raised by the Committee of Experts concerned comments made by the International Trade Union Confederation (ITUC) relating to allegations of anti-union discrimination and the practical obstacles to collective bargaining in export processing zones, as well as the observations from the International Organization of Employers (IOE) and the Mauritius Employers' Federation (MEF) related to alleged interference by the Government in the voluntary nature of collective bargaining, especially with respect to the sugar industry.

The Committee noted the Government representative's indication that the 2008 Employment Relations Act was adopted with a view to establishing an industrial relations system to promote social progress and economic growth, protecting and enhancing the democratic rights of workers and trade unions, boosting collective bargaining and promoting the voluntary settlement and peaceful resolution of disputes. This Act was amended in 2013 to introduce the notion of a sole and exclusive bargaining agent and a conciliation service at the joint request of the parties. As regards the ITUC allegations of anti-union discrimination, the Government indicated that the information provided was insufficient for it to carry out an investigation and requested further particulars.

The Government had also provided information on the manner in which the dispute concerning the Mauritius Sugar Producers' Association (MSPA) was handled, with outstanding matters being referred to the National Remuneration Board (NRB) but that subsequently, the Minister of Labour withdrew this referral, pursuant to an agreement reached by the parties. He added that it was not his Government's intention to undermine collective bargaining, but rather that the referral was made in a very specific context with a view to avoiding a strike in the sugar industry. He further referred to the case before the Committee on Freedom of Association which had welcomed the agreement and, while observing that additional observations had been submitted by the IOE and the MEF in September 2014, had indicated that his Government was awaiting supporting evidence.

Finally, as regards to export processing zones (EPZs), the Government representative indicated that there was no legal impediment to collective bargaining for EPZ workers and that they would do everything to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers' and workers' organizations in this sector, including increasing awareness-raising campaigns to sensitize workers on their rights.

Taking into account the discussion, the Committee urged the Government to:

- refrain from violating Article 4 of the Convention and avoid such violations in the future;
- cease undue interference in private sector collective bargaining by selectively reviewing the Remuneration Orders in response to the outcome of collective bargaining;
- engage in social dialogue with the social partners regarding collective bargaining and the Remuneration Orders; and
- take concrete measures to promote collective bargaining in the EPZs and provide information to the Committee of Experts on the state of collective bargaining in the Zones.

The Government representative took note of the conclusions and assured the Committee that consideration would be given in the course of the ongoing reform of the labour legislation undertaken in consultation with the employers' and workers' organizations.

MAURITANIA

Forced Labour Convention, 1930 (No. 29)

(Ratification: 1961)

Conclusions

The Committee took note of the oral information by the Government representative and the discussion that followed. The Committee recalled that it had discussed the present case on six previous occasions and that a fact-finding mission had visited Mauritania in 2006, at the request of the Conference Committee.

The Committee noted that the outstanding issues raised by the Committee of Experts related to the ineffective implementation of Act No. 2007/48 of 9 August 2007 criminalizing slavery and punishing slavery-like practices, including: the difficulty for victims of slavery to be able to assert their rights before the competent law enforcement and judicial authorities as reflected in the low number of judicial proceedings; the need to carry out awareness-raising measures about the illegality and illegitimacy of slavery amongst the population and the authorities responsible for enforcing the 2007 Act; and the need to effectively implement the various recommendations contained in the roadmap for combating the vestiges of slavery which was adopted in March 2014.

The Committee noted the Government's statement outlining laws and policies put in place to combat all vestiges of slavery. This included constitutional amendments as well as the adoption and implementation of 2007 Act which defined slavery for the first time and empowered human rights' associations to report violations of the 2007 Act and to assist victims. The Committee further noted the Government's indication that a Bill was under review which would, amongst other things, provide for the setting up of a special court to deal specifically with offences related to slavery and slave-like practices. The Committee also noted the information on the various awareness-raising activities undertaken and programmatic measures targeted at reducing economic and social inequalities by improving means of existence and the conditions for the emancipation of the vulnerable social groups affected by slavery and its vestiges. Finally, the Committee noted the Government's statement that it would continue to avail itself of ILO technical assistance in order to achieve tangible progress in the application of the Convention.

Taking into account the discussion that took place, the Committee urged the Government to:

- strictly enforce the 2007 Act to ensure that those responsible for the practice of slavery be effectively investigated and prosecuted and, receive and serve sentences that are commensurate with the crime;
- amend the 2007 Act to grant third parties, including trade unions a locus standi to bring charges and pursue cases on behalf of victims, consider shifting the burden of proof, and increase the prison sentence for the crime of slavery to a period in line with international standards for crimes against humanity;
- implement fully the National Plan to Combat the Vestiges of Slavery (PES) and the roadmap for combating the vestiges of slavery, including comprehensive victim support and processes. This should include the following:
 - Reinforcement of the capacity of the authorities to prosecute and administer the justice system in relation to slavery.
 - Anti-slavery prevention programmes.
 - Specific programmes enabling victims of slavery to escape.
 - Awareness-raising programmes.
- provide necessary resources to the National Agency to Fight against the Vestiges of Slavery, for Social Integration and to Fight against Poverty, or "Tadamoun", and ensure that its programmes include those aimed at addressing and combating slavery;
- develop and implement public awareness-raising campaigns for the general public, victims of slavery, police, administrative and judicial authorities and religious authorities;
- facilitate the social and economic integration of those formally subjected to slavery into society, in the short-, medium- and long-term, and ensure that Haratine and other marginalized groups affected by slavery and slavery-like practices have access to services and resources;
- collect detailed data on the nature and incidence of slavery in Mauritania and establish procedures for monitoring and evaluating implementation of efforts to end slavery;
- avail itself of ILO technical assistance to implement these recommendations; and
- report in detail on the measures taken to implement these recommendations, in particular on the enforcement of anti-slavery laws, to the next meeting of the Committee of Experts in November 2015.

The Committee decided to include its conclusions in a special paragraph of the report.

The Government representative took due note of the conclusions of the Committee and stated that the Government would do everything possible to include the conclusions in the national legislation. He hoped that these changes would reflect the efficient collaboration between the ILO and Mauritania.

MEXICO

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

(Ratification: 1950)

Conclusions

The Committee took note of the oral statements made by the Under-Secretary for Labour and Social Provision and the discussion that followed.

The Committee took note of the fact that the issues raised by the Committee of Experts related, among other things, to: the murders of two *campesino* (peasant farmer) leaders; failure to publish trade union registrations and by-laws at local level (a practice connected with protection unions and protection contracts) despite a legal obligation to that effect; legal provisions declared unconstitutional that ran counter to trade union pluralism in federal state agencies, the right of civil servants to join trade unions freely and the right of civil servants' organizations to affiliate with other organizations; and the ban on foreigners serving on trade union executive committees.

The Committee took note of the Government representative's statements to the effect that the two *campesino* leaders murdered had not been dependent workers but coffee producers, had not belonged to any union, and had submitted claims that concerned the havoc wrought by a hurricane, such that the events had no relation to the Convention. With regard to the alleged failure to publish trade union registrations and by-laws at local level, it noted that as a result of the reform of the Federal Labour Act in 2012, any worker was now entitled to view these registrations and there was also a legal obligation to publish them electronically, although the reform allowed three years for this to be finalized (in fact, two local conciliation and arbitration boards, for the Federal District and San Luis de Potosí, already had electronic methods in place; the rest were in the process of digitization). The provisions of the Federal Act on State Employees mentioned by the Committee of Experts had been superseded by jurisprudence of the Supreme Court and by usage and custom, such that in many departments there were several registered trade unions, workers were not dismissed when they moved from one union to another, and public service trade unions were in fact affiliated to other organizations (there were four federations). The administrative authorities did not check whether executive committee members were foreign or not, and the 2012 reform prohibited discrimination based on national origin in the exercise of collective rights. The complaints and data referred to by the trade union sector concerning protection contracts were based on studies from 2004 and did not take account of recent jurisprudence or the 2012 reform that had prohibited exclusion clauses in collective contracts that restricted access to employment to members of trade unions; furthermore, the 2012 reform imposed sanctions – and even penal sanctions – on conciliation and arbitration boards whose interference was considered excessive. The Government representative had offered to provide updated information and hoped to receive feedback from the ILO. He recalled the dialogue that had taken place with national and international trade unions, and reiterated that his Government was open to engage in dialogue and that it was committed to freedom of association and other fundamental rights at work. He considered that the Committee should confine itself to the case at hand and, so as to avoid confusion, not become involved in issues that had been dealt with by the Committee on Freedom of Association.

The Committee noted with satisfaction the judgment of the Supreme Court of Justice declaring inapplicable the standards which had impeded trade union pluralism in the institutions of the State and banned re-election in trade unions.

Taking into account the discussion, the Committee requested the Government to:

- fulfil without delay its obligation to publish the registration and by-laws of trade unions in the local boards in the 31 states in the country, not just in the Federal District and San Luis de Potosí, in a period of three years as established in the Federal Labour Law;
- identify, in consultation with the social partners, additional legislative reforms to the 2012 Labour Law necessary to comply with Convention No. 87. This should include reforms that would prevent the registration of trade unions that cannot demonstrate the support of the majority of the workers they intend to represent, by means of a democratic election process – so-called protection unions; and
- provide a report on progress made to comply with these recommendations by the next session of the Committee of Experts.

The ILO should offer, and the Government of Mexico should accept, technical assistance to address the issues referred to in these recommendations.

The Government representative commended the work of the Committee and noted with interest its conclusions. He expressed the Government's commitment to provide all the information requested and was convinced that would attest to the progress made in labour matters in Mexico. The results had been achieved through social dialogue and the commitment to decent labour in conformity with the ILO's mandate.

PHILIPPINES

Safety and Health in Mines Convention, 1995 (No. 176)

(Ratification: 1998)

Conclusions

The Committee took note of the oral information provided by the Government representative on the issues raised by the Committee of Experts and the discussion that ensued relating to: the need to have a comprehensive legal framework to give effect to all provisions of the Convention; the increase in the number of work accidents in the mining industry; the effective application of penalties for violations related to occupational safety and health; the need to take measures to ensure that workers and their representatives have the right to report accidents, dangerous occurrences and hazards to the employer and to the competent authority; the need to ensure that workers' safety and health representatives receive notice of accidents and dangerous occurrences; and the need to ensure that employers in charge of mines be responsible for the preparation of appropriate plans of workings of the mines, for the establishment of a recording system of persons underground and their probable location, and for ensuring that the mine is designed, constructed and provided with electrical, mechanical and other equipment to provide conditions for safe operation and a healthy working environment.

The Committee noted the information provided by the Government representative as well as the Government's indication that some provisions of the Convention had not been incorporated into national laws or regulations. The Government explained that it planned to undertake consultations for the review of the national regulations and standards relating to occupational safety and health in the mining sector. It indicated that provisions would be integrated into draft legislation, currently before Congress, relating to the responsibility of employers to ensure that mines are designed and constructed safely, and also their responsibility to provide conditions of safe operation and a healthy working environment, as well as to the right of the workers and their representatives to report accidents. The Government also indicated that it intended to develop a joint memorandum of agreement between the Department of Labour and Employment and the Department of Environment and Natural Resources for closer coordination in order to strengthen safety and health in mines. This joint memorandum of agreement would include action to restore the accreditation system for service contractors in mines in order to ensure the coordination of two or more employers at a mine in implementing measures concerning the safety and health of workers. The Government further indicated that it would continue to work with the Mining Industry Tripartite Council and pursue its efforts to develop the capacity of the social partners with respect to occupational safety and health. The Committee also noted the Government's request for technical assistance from the ILO.

Taking into account the discussion, the Committee requested the Government to:

- provide further information on the measures taken to ensure that the employer in charge of the mine prepares appropriate plans of workings before the start of the operation;
- adopt legislative provisions that impose responsibility upon employers to ensure that the mine is designed and constructed safely and provided with electrical, mechanical and other equipment, including communication systems;
- provide information on the manner in which probable location of the workers in the mine is recorded;
- indicate measures taken to ensure that whenever two or more employers undertake activities at the same mine, the employer in charge of the mine coordinates the implementation of all measures concerning the safety and health of workers, and is held primarily responsible for the safety of the operations;
- indicate measures undertaken or envisaged to ensure that workers and their representatives have the right to report accidents, dangerous occurrences and hazards to the employer and to the competent authority;
- provide information on measures taken or planned to respond to the increase in work accidents in the mining industry;
- enact as soon as possible the pending legislative measure which proposes to impose stiffer penalties and criminalization of the violation of occupational safety and health standards; and
- increase the capacity and involvement of social partners, particularly trade union representatives, in ensuring compliance with occupational safety and health standards in the mining industry, including in the conduct of safety and health inspection.

The Committee further requested the ILO to extend technical assistance and capacity building to the Government of the Philippines and its social partners towards effective observance of the safety and health standards in the mining industry without regard to the size of operation of the employer.

The Government representative took due note of the conclusions and recommendations of the Committee. The Government was committed to carry out the necessary measures and would provide the requested detailed information to the Committee of Experts in 2016, together with a progress report on the actions undertaken to bring the legislation into conformity with the provisions of the Convention.

QATAR

Forced Labour Convention, 1930 (No. 29)

(Ratification: 1998)

Conclusions

The Committee took note of the oral information provided by the Government representative and the discussion that ensued relating to the vulnerable situation of migrant workers to conditions of forced labour.

The Committee noted that the outstanding issues raised by the Committee of Experts related to the need to review without delay Law No. 4 of 2009 regulating the sponsorship system which currently restricted the possibility for migrant workers to leave the country or change employer, and placed the workers concerned in a situation of increased vulnerability, particularly where they were subjected to practices such as retention of their passports, restrictions on their freedom of movement, contract substitution and the non-payment, underpayment or late payment of wages. The issues raised by the Committee of Experts also related to the need to guarantee to migrant workers access to rapid and efficient complaints mechanisms as well as access to protection and assistance mechanisms when their rights were infringed; and the need to impose adequate penalties for violations of the Labour Code and the Law regulating the sponsorship system as well as for violations of the Penal Code relating to forced labour.

The Committee noted the information provided by the Government representative outlining the recent measures taken to protect migrant workers. This included the drafting of a Bill to repeal the sponsorship system and to replace it by work contracts. Under this Bill, workers would be allowed to change employer after the end of their contract of a specific duration or after five years in the case of permanent contracts. Legislative amendments were also under way to allow workers to request a release permit from the competent government authority without referring back to the employer.

In addition, the Government stated that it had established a new and efficient complaints mechanism for migrant workers whereby complaints were settled directly between employers and workers through the Ministry of Labour and Social Affairs. Moreover, workers could submit their complaints in both Arabic and English as well as in seven other languages, and a hotline had been launched at the Ministry to receive complaints by telephone and electronic mail in order to respond to queries without delay. Furthermore, the Ministry of Labour had held information symposia intended for employers and workers so as to raise their awareness of their rights and obligations. In addition, an office representing the Ministry was also set up in the judiciary so as to collaborate with workers who initiated legal proceedings against employers, and to provide them with legal aid in addition to providing interpreters who spoke the languages of the majority of workers, free of charge.

With regard to measures taken to protect domestic workers, the Committee noted the Government's indication that a Bill on domestic workers was currently being examined.

Finally, the Committee noted the information provided by the Government on the measures taken to strengthen the labour inspection services, particularly by expanding its geographical coverage, increasing the number of labour inspectors and providing them with modern computer equipment.

Taking into account the discussion that took place, the Committee urged the Government to:

- abolish the *kafala* system and replace it with a work permit that allows the worker to change employer. This includes abolishing the “no objection” certificate;
- work towards abolishing the exit permit system in the shortest possible time; in the interim, make exit permits available as a matter of right;
- vigorously enforce the legal provisions on passport confiscation;
- work with labour sending countries to ensure that recruitment fees are not charged to workers;
- ensure that contracts signed in the sending countries are not altered in Qatar, and prosecute those responsible who have engaged in deception as to wages and working conditions;
- facilitate access to the justice system for migrant workers. This includes, but is not limited to, assistance with language and translation, the elimination of fees and charges related to bringing a claim, and disseminating information about the Ministry of Labour and Social Affairs; ensure that workers are able to access these systems without fear of reprisals, that these cases are processed expeditiously and that orders are enforced;
- continue to hire additional labour inspectors and increase material resources to them necessary to carry out labour inspections, in particular in workplaces where migrant workers are employed;

- ensure investigation and prosecution of those suspected of exploitation and prevent those found guilty from recruiting workers in the future;
- ensure that the penalties applicable under law for serious exploitation of workers, including the crime of forced labour as specified in the Penal Code, and penalties for violations of the Labour Law are adequate, and that these laws are effectively enforced; and
- ensure that domestic workers have equal labour rights.

SWAZILAND

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

(Ratification: 1978)

Conclusions

The Committee took note of the written and oral information provided by the Government and the discussion that followed.

The Committee noted that the report of the Committee of Experts referred to grave and persisting issues of non-compliance with the Convention in particular in relation to the de-registration of all federations in the country: the Trade Union Congress of Swaziland (TUCOSWA), the Federation of Swaziland Employers and Chambers of Commerce (FSE-CC) and the Federation of Swaziland Business Community (FSBC). The Committee of Experts called on the Government to register these organizations without delay and to ensure their right to engage in protest action and peaceful demonstrations in defence of their members' occupational interests and to prevent any interference or reprisal against their leaders and members. The Committee of Experts' comments also referred to the ongoing imprisonment of TUCOSWA's lawyer, Mr Maseko, and a number of laws that needed to be brought into conformity with the provisions of the Convention.

The Committee took note of the information provided by the Government representative relating to the amendment made to the Industrial Relations Act (IRA) by virtue of which TUCOSWA, the FSE-CC and the FSBC are now registered. She indicated the Government's full commitment to ensuring the full operationalization of all tripartite structures and stated that the federations have been invited to nominate their members on the various statutory bodies. She emphasized that this development would assist in maintaining a healthy social dialogue in Swaziland. Sections 40(13) and 97 of the IRA had also been amended to respond to the comments of the Committee of Experts. A revised Code of Good Practice on protest and industrial actions had been circulated and the Government was awaiting comments from the social partners, while the revised bill to amend the Suppression of Terrorism Act was referred back to Cabinet to ensure that the amendments would not compromise law and order. Similarly, the Correctional Services (Prison) Bill had been referred back to the Minister for Justice and Constitutional Affairs. As for Mr Maseko, she recalled that he was charged and convicted for contempt of court after publishing an article which constituted a scurrilous attack on the judiciary and was calculated to undermine the rule of law in Swaziland. The issue of the independence of the judiciary was being addressed as a matter of urgency. She concluded by reiterating her Government's request for ILO technical assistance to ensure the completion of the Code of Good Practice and amendments to the Public Order Act, and indicated her desire for training for all parties in this regard.

Taking into account the discussion, the Government is urged, without further delay, to:

- release unconditionally Thulani Maseko and all other workers imprisoned for having exercised their right to free speech and expression;
- ensure all workers' and employers' organizations in the country are fully assured their freedom of association rights in relation to the registration issue, in particular, register the Amalgamated Trade Union of Swaziland (ATUSWA) without any further delay;
- amend section 32 of the IRA to eliminate the discretion of the Commissioner of Labour to register trade unions;
- ensure organizations are given the autonomy and independence they need to fulfil their mandate and represent their constituents. The Government should refrain from all acts of interference in the activities of trade unions;
- investigate arbitrary interference by police in lawful, peaceful and legitimate trade union activities and hold accountable those responsible;
- amend the 1963 Public Order Act following the work of the consultant, and the Suppression of Terrorism Act, in consultation with the social partners, to bring them into compliance with the Convention;
- adopt the Code of Good Practice without any further delay and ensure its effective application in practice;
- address the outstanding issues in relation to the Public Services Bill and the Correctional Services Bill in consultation with the social partners; and
- accept technical assistance in order to complete the legislative reform outlined above so that Swaziland is in full compliance with the Convention.

The Committee decided to include its conclusions in a special paragraph of the report.

The Government representative thanked the Committee for its conclusions. Highlighting that the Government had made significant progress in respect to its legislation, she expressed surprise at the conclusions, in particular the last part. She reiterated the Government's commitment to address the issues raised by the Committee and to report periodically.

The Government member of South Sudan congratulated the Government for the commendable actions it had taken to address the concerns on labour issues. She noted in particular the amendment of the Industrial Relations Act and the registration of federations. With regard to the alleged violation of the right to freedom of association by the police, strikers should, when exercising their rights, understand the limits of their actions and conduct their activities in a manner respectful of the rule of law. In concluding, she called upon the ILO to continue providing technical assistance to Swaziland in order to achieve full compliance with ILO Conventions.

TURKEY

Occupational Safety and Health Convention, 1981 (No. 155)

(Ratification: 2005)

Conclusions

The Committee noted the detailed oral information provided by the Government representative on the issues raised by the Committee of Experts and the discussion that ensued relating to: ensuring that occupational safety and health (OSH) legislation applied to all workplaces covered by the Convention; the need to improve the functioning of the National OSH Council, including effective representation and consultation of the social partners; the need to improve inter-ministerial coordination on OSH issues; clarifying the roles and responsibilities of employers and occupational safety experts (OSEs) and ensuring workplace safety; the need to periodically review the OSH situation with particular attention to subcontracting and the mining, metal and construction sectors; strengthening labour inspection, particularly with respect to the various forms of precarious work, and ensuring the effective application of penalties; improving and ensuring the application in practice of procedures established for the notification of occupational accidents and diseases, and the production of annual statistics; ensuring that workers can remove themselves from situations of serious and imminent danger without suffering undue consequences; and ensuring collaboration on OSH between two or more undertakings engaging in activities simultaneously at one workplace.

The Committee noted the information provided by the Government representative on the adoption of the Third National Occupational Health and Safety Policy Document and Action Plan for 2014–18 by the tripartite National Occupational Health and Safety Council. This Action Plan included the objectives of: improving the quality of OSH activities; reducing the number of accidents in the metal, mining and construction sectors; intensifying OSH activities for agriculture and public sectors; disseminating a safety culture; improving the collection of statistics on work accidents and occupational diseases as well as diagnostic data; and providing hospitals with the infrastructure necessary to diagnose occupational diseases. In this regard, the Government indicated that a workshop with the relevant stakeholders had been held in May 2015 in order to identify a roadmap for improving the collection and dissemination of data on OSH. Moreover, amendments to the Occupational Safety and Health Act No. 6331 had been adopted in April 2015 to: strengthen the applicable administrative fines; clarify the authority and responsibility of workplace physicians and OSEs; add incentives for enterprises with good OSH records; include OSH obligations in public procurement and prohibit mining companies that had experienced fatal work accidents from public procurement for two years; specify that pressure for overproduction could be a reason for suspending work; limit the maximum hours of work for miners; and introduce OSH as a compulsory curricula component in relevant educational programmes. The Government indicated it was implementing several awareness raising measures aimed at developing a preventative culture of safety and health, including by disseminating information on the new legislation. Other measures taken included the ratification of the Safety and Health in Mines Convention, 1995 (No. 176) and the Safety and Health in Construction Convention, 1988 (No. 167) in March 2015. The Government further indicated that it was cooperating with the ILO on a project that aimed to develop a tripartite roadmap for improving occupational safety and health, particularly in the mining and construction sectors, in line with international commitments under relevant ILO labour standards. The Government provided information on the number of labour inspections undertaken, including sectoral inspections, administrative fines imposed and stop orders issued.

The Committee welcomed the ongoing efforts made by the Government and the social partners to improve safety and health at work and the intention to overcome the issues identified in a comprehensive and sustained way, with the support of the Office.

Taking into account the discussion, the Committee requested the Government to:

- ensure that the Occupational Safety and Health Act is in compliance with Convention No. 155, in particular with respect to its coverage and in ensuring the right of workers to withdraw themselves from serious and imminent danger;
- assess the effectiveness of the measures undertaken in the context of the National Action Plan aimed at increasing workplace safety;
- improve record keeping and monitoring systems concerning health and safety, including occupational diseases;
- increase the number of labour inspections and ensure that dissuasive sanctions are imposed for infractions of laws and regulations, in particular with respect to subcontractors;
- refrain from interfering violently in lawful, peaceful and legitimate trade union activities addressing health and safety concerns; and
- engage in genuine dialogue with all social partners.

The Committee urged the Government to present its report on the Convention to the Committee of Experts this year, and to continue to avail itself of ILO technical assistance.