Committee of Experts on the Application of Conventions and Recommendations (CEACR)

Observations 2016

Regional file by country -

AFRICA

Algeria

C006 - Night Work of Young Persons (Industry) Convention, 1919 (No. 6)

Observation 2016

Article 3(1) of the Convention. Period during which night work is prohibited. In its previous comments, the Committee noted that, under section 27 of Act No. 90-11 of 21 April 1990 concerning employment relationships (Employment Relationship Act), the term "night work" means any work performed between 9 p.m. and 5 a.m. It also noted that section 28 of the Employment Relationship Act prohibits the employment of workers of either sex under 19 years of age in night work. The Committee noted that the aforementioned Act reiterated the provisions of sections 13 and 14 of Act No. 91-03 of 21 February 1981, on which it had been commenting for many years, as the prohibition of night work for children did not cover a period of at least 11 consecutive hours. The Committee reminded the Government that, under the terms of *Article 3(1)* of the Convention, the term "night" signifies a period of at least 11 consecutive hours, including the interval between 10 p.m. and 5 a.m.

The Committee notes that the Government reiterates in its report that night work is prohibited for all young persons under 19 years of age and that the legislation is thus in conformity with the Convention. However, the Committee recalls that even though section 27 of the Employment Relationship Act complies with the interval prescribed by the Convention (between 9 p.m. and 5 a.m.), it does not specify the period during which night work is prohibited, namely 11 consecutive hours. ***Recalling that the Government has been indicating since 1990 that it would take the Committee's comments into account, the Committee urges the Government to take the necessary steps in the near future to give full effect to Article 3(1) of the Convention and thereby ensure that the prohibition of night work for children in all cases covers a period of at least 11 consecutive hours, including the interval between 10 p.m. and 5 a.m. It requests the Government to provide information as soon as possible on any progress achieved in this respect.***
[The Government is asked to reply in full to the present comments in 2018.]

C013 - White Lead (Painting) Convention, 1921 (No. 13)

Observation 2016

Legislation. In its previous comments, the Committee asked the Government to take all the necessary measures to bring national law and practice into line with the terms and objectives of the Convention. The Committee notes the Government's indication in its report that the use of white lead and lead pigments is prohibited in industrial painting and that no paints manufactured by the National Paint Company contain white lead. It also notes that the Government lists numerous laws and regulations. However, the Committee notes that the laws and regulations listed in the report do not contain the specific provisions required to give full effect to the Convention. The Committee again reminds the Government that the provisions of the Convention include the prohibition of the use of white lead and sulphate of lead in the internal painting of buildings *(Article 1 of the Convention*), the regulation of the use of white lead in artistic painting *(Article 2*), the prohibition of the employment of young men under 18 years of age and all women in any painting work involving the use of white lead *(Article 3*), and the regulation of the use of white lead in painting work for which its use is not prohibited *(Article 5).* The Committee also recalls that these provisions shall be established by means of laws or regulations. ***The Committee therefore requests the Government to take all the necessary steps in the very near future to give effect through laws or regulations to the above Articles of the Convention and to provide information on all progress made in this respect.***

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

Algeria

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, on persistent violations of the Convention in practice, in particular the arrest in February 2016 of trade union members at the trade union centre, and acts of violence by the police against protest action in the public education sector. Lastly, the Committee notes the observations of the General and Autonomous Confederation of Workers in Algeria (CGATA), received on 27 June 2016, denouncing the persistence of difficulties for independent trade unions to register and undertake their activities, and cases of police violence at peaceful demonstrations. ***Noting the extreme gravity of the allegations, the Committee urges the Government to provide its comments and detailed information in response to the ITUC and the CGATA.***

Legislative issues

Act issuing the Labour Code. The Committee recalls that the Government has been referring since 2011 to the process of adopting a law issuing the Labour Code. In this regard, the Committee recalled the need for consultations with the representative employers' and workers' organizations in order to take their views into account. In its report, the Government indicates that the latter have participated in all the tripartite exercises initiated and that some of the Committee's recommendations have been taken into account. However, the Government does not provide a more up-to-date version of the draft bill. ***Noting that this process has still not been concluded despite the time that has passed, the Committee expects the Government to take all the necessary measures for the adoption of the law issuing the Labour Code without any further delay. The Committee is sending comments on the bill in relation to the application of the Convention in a request addressed directly to the Government, and trusts that it will take them duly into account and adopt the amendments requested.***

Moreover, the Committee notes with ***regret*** that the Government confines itself to reiterating its previous replies to the other legislative issues raised in the Committee's previous comments. ***Recalling that it has been making these comments for ten years and that the Government has failed to offer an adequate response, the Committee urges the Government to take all the necessary measures to adopt the amendments requested to the following provisions.***

Article 2 of the Convention. Right to establish trade union organizations. The Committee recalls that its comments have focused on section 6 of Act No. 90 14 of 2 June 1990 on the exercise of the right to organize, which restricts the right to establish a trade union organization to persons who are originally of Algerian nationality or who acquired Algerian nationality at least ten years earlier. The Committee previously noted the Government's indication that the Act in question will be amended so that the right to establish trade unions is extended to foreign nationals. ***The Committee trusts that the Government will amend section 6 of Act No. 90-14 as soon as possible so that it recognizes the right of all workers, without distinction on the basis of nationality, to establish trade unions. The Committee also refers the Government to the comments it is making in a direct request asking for the amendment of the relevant provisions on this point in the draft bill to issue the Labour Code.***

Article 5. Right to establish federations and confederations. The Committee recalls that its comments have related to sections 2 and 4 of Act No. 90 14 which, read jointly, have the effect of restricting the establishment of federations and confederations in an occupation, branch or sector of activity. The Committee previously noted the Government's indication that section 4 of the Act will be amended to include a definition of federations and confederations. ***In the absence of information on any new developments in this regard, the Committee trusts that the Government will amend section 4 of Act No. 90-14 as soon as possible in order to remove any obstacles to the establishment by workers' organizations, irrespective of the sector to which they belong, of federations and confederations of their own choosing. The Committee also refers the Government to the comments it is making in a direct request asking for the amendment of the relevant provisions on this point in the draft bill issuing the Labour Code.***

Trade union registration in practice

The Committee recalls that its comments have related to the issue of particularly long delays in the registration of trade unions. Its previous comments referred in particular to the situation of the Higher Education Teachers' Union (SESS), the National Autonomous Union of Postal Workers (SNAP) and the CGATA. In its report, the Government indicates that SNAP has been registered, that the authorities informed the SESS of certain requirements that must be met to bring its application into conformity with the law, and that the CGATA was informed in 2015 that it did not meet the legal requirements for the establishment of a confederation. The Committee notes with ***concern*** the CGATA's allegations denouncing the persistence of obstacles to the registration of newly created trade unions, most recently in the case of the Autonomous Union of Attorneys in Algeria (SAAVA) and the Autonomous Algerian Union of Transport Workers (SAATT). The Committee recalls that the Committee on Freedom of Association and the Committee on the Application of Standards of the International Labour Conference have also addressed this issue in recent years and have requested the Government to process registration applications more rapidly. The Government nevertheless continues to indicate repeatedly that the trade unions concerned have not fulfilled certain requirements. ***The Committee expects the Government to take all the necessary measures to guarantee the prompt registration of trade unions which have met the requirements set out by law, and, if necessary, expects the competent authorities to ensure that the organizations in question are duly informed of the additional requirements that have to be met. The Committee requests the Government to indicate which requirements were not fulfilled and urges it to process the registration applications of the CGATA, the SESS, the SAAVA and the SAATT rapidly.***

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

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee notes the observations made by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2016 concerning acts of anti-union discrimination against trade union leaders, as well as dismissals of trade union members following protest action in enterprises in the urban transport, automobile, steel and mining sectors. The Committee also notes the observations made by the General and Autonomous Confederation of Workers in Algeria (CGATA) in communications received on 9 June 2015 and 27 June 2016, reporting cases of anti-union discrimination in the public sector (justice, postal services, public health, national water resources agency) and in several enterprises in the gas and cleaning industries. The Committee notes with ***regret*** that the Government has not responded to the allegations from the ITUC and the CGATA, previously submitted to the Committee, concerning anti-union discrimination, among other things, in enterprises in the maritime, finance and construction sectors and in certain public establishments (postal services and education). ***In light of the gravity of the allegations, some of which date back to 2014, the Committee urges the Government to be more cooperative in the future and to provide its comments on the observations of the ITUC and the CGATA, and in particular to indicate, in cases where anti-union discrimination is found, the corrective measures taken and the penalties applied on those responsible.***

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

Algeria

C119 - Guarding of Machinery Convention, 1963 (No. 119)

Observation 2016

Article 2(3) and (4) of the Convention. Determination of machinery and the dangerous parts thereof on the occasion of their sale, hire, transfer in any other manner and exhibition. Articles 6(1) and 7. Prohibition of the use of machinery any dangerous parts of which are without guards, or prevention of such use by other measures. Obligation of the employer. The Committee recalls that in its previous comments it noted that, according to the Government, Act No. 88-07 of 26 January 1988 on occupational safety, health and medicine was due to be revised and brought into conformity with the Convention. In its previous comment, it noted that a review of labour law was being undertaken with a view to the codification of the labour legislation, and that the Committee's comments would be integrated into the draft text. The Committee notes that the Government makes no further reference in its report to the process of reviewing the legislation. In this regard, it notes that the Government continues to refer to Act No. 88-07 and Executive Decree No. 91 05 of 19 January 1991 issuing general protection provisions applicable in the field of occupational safety and health as giving effect to *Articles 2* and *6* of the Convention. The Committee emphasizes once again that section 8 of Act No. 88-07, which prohibits the manufacture, exhibition, putting up for sale, sale, import, hire or transfer in any other manner of machinery or parts of machinery that do not correspond to current national and international health and safety standards, does not determine the machinery or parts thereof considered to be dangerous, in accordance with the requirements of *Article 2(3)* and *(4)* of the Convention. It also emphasizes that sections 40–44 of Executive Decree No. 91-05 do indeed identify the dangerous machinery and parts thereof which shall be guarded during use but, on the one hand, do not cover the situations set out in *Article 2* and, on the other, do not prohibit the use of machinery of which the dangerous parts are without appropriate guards, as required by *Article 6(1).* Nor does the Government indicate whether, as an alternative, the use of such machinery is prevented by other equally effective measures. The Committee also recalls that the obligation to ensure compliance with *Article 6* shall rest, in accordance with *Article 7,* on the employer. ***The Committee therefore urges the Government to take all the necessary measures to give effect in law and practice to the above Articles of the Convention and to provide information on any progress achieved in this regard.***

C120 - Hygiene (Commerce and Offices) Convention, 1964 (No. 120)

Observation 2016

Article 14 of the Convention. Suitable seats for workers. Article 18. Protection against noise and vibrations. The Committee recalls that for many years it has been requesting the Government to take the necessary measures to give effect to *Articles 14* and *18* of the Convention. In this context, it notes the Government's indication that a draft Decree to amend and supplement Executive Decree No. 91-05 of 19 January 1991 issuing general protection measures applicable in relation to occupational safety and health takes into account the issues relating to seats and vibrations. ***The Committee hopes that the draft Decree referred to above will give full effect to Articles 14 and 18 of the Convention and requests the Government to provide a copy of the new Decree once it has been adopted.***

Application in practice. The Committee notes that the Government indicates once again on this matter that it is constantly attentive, through the labour inspection services, to ensuring compliance with conditions of work in workplaces liable to inspection, although it notes that no specific information has been provided on the application of the Convention in practice. ***The Committee therefore once again requests the Government to give a general appreciation of the manner in which the Convention is applied in practice including, for example, relevant extracts from the reports of the inspection services and, where such statistics are available, information on the number of workers covered by the legislation, the number and nature of the contraventions reported, and the number, nature and causes of the diseases and accidents declared.***

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

Observation 2016

Article 5 of the Convention. Effective tripartite consultations. The Government indicates that the most representative workers' and employers' organizations, among others, are consulted in order to examine and strengthen labour regulations and legislation. It explains that social dialogue is carried out on three levels, that is national, economic sector and enterprise levels. With regard to social dialogue at national level, the Government indicates that 19 tripartite meetings have been held since 1990, as well as 14 bipartite meetings involving the Government and one of the social partners. At the tripartite meetings, several economic and social issues were addressed. The Government refers to the stability and development agreement for enterprises in the private sector signed on 5 June 2016 between the General Union of Algerian Workers (UGTA) and the employers' associations and organizations. The Committee notes that once again the Government's report contains no reply to its previous comments in which the Government was invited to provide precise information on the tripartite consultations held on the matters relating to international labour standards set out in *Article 5(1)* of the Convention. ***Recalling that the Convention sets out primarily tripartite consultations aimed at promoting the implementation of international labour standards, the Committee once again asks the Government to provide precise information on the content and outcome of tripartite consultations held on all matters concerning international labour standards covered by the Convention and other matters concerning the activities of the ILO, particularly relating to the questionnaires on the Conference agenda items (Article 5(1)(a)); the submission of instruments adopted by the Conference to Parliament (Article 5(1)(b)); the re-examination at appropriate intervals of unratified Conventions and Recommendations to which effect has not yet been given (Article 5(1)(c)); and reports to be presented on the application of ratified Conventions (Article 5(1)(d)).***

Angola

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

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

Articles 4 and 6 of the Convention. Right to collective bargaining of public employees not engaged in the administration of the State. For several years the Committee has been asking the Government to take the necessary steps to:

·– ensure that the trade union organizations of public servants who are not engaged in the administration of the State have, under the new Constitution adopted in 2010, the right to negotiate with their public employers regarding terms and conditions of employment as well as wages;

·– amend sections 20 and 28 of Collective Bargaining Act No. 20-A/92 so that compulsory arbitration may only be imposed for essential services in the strict sense of the term (namely, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population).

The Committee again notes the Government's indication that Collective Bargaining Act No. 20-A/92, Trade Union Act No. 21-C/92 and Act No. 23/91 are being revised and that the draft amended versions will be sent to the Office once they are the subject of public discussion. While reminding the Government of the possibility of availing itself of technical assistance from the Office in the process of legislative reform, the Committee hopes that the Government will take account of all the comments made in order to bring the legislation fully into line with the Convention and requests it to provide information on any developments in this respect.

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

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

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

Observation 2016

Article 1(a) of the Convention. Imposition of penal sanctions involving compulsory labour as a punishment for expressing political views or views ideologically opposed to the established political, social or economic system. In its previous comments, the Committee reminded the Government that prison sentences which involve compulsory labour, which is the case in Angola by virtue of sections 13 and 50(c) of the Regulations of the progressive regime of 9 July 1981, are contrary to *Article 1(a)* of the Convention when they are imposed to punish the expression of political opinions or opposition, including through the press or any other media. The Committee requested the Government to take account of this provision of the Convention in the process of adopting a new Penal Code, which began in 2004.

In this regard, the Committee notes that during his visit to Angola in April 2013, the United Nations High Commissioner for Human Rights referred to certain difficulties related to the content, interpretation and application of laws on freedom of expression and freedom of assembly, referring to the brutal repression of protests by the police and the excessive use of force, threats and arbitrary detention. The High Commissioner also indicated that the provisions concerning defamation posed a threat to investigative journalism and should be replaced. The Committee notes in this regard that the current draft Penal Code, which is available on the website of the Justice and Law Reform Commission, still establishes prison sentences for the offences of slander and defamation. ***Recalling that the Convention prohibits the imposition of forced labour, including compulsory prison labour, for the expression of political views or opposition to the established political, social or economic system, the Committee firmly hopes that the Government will take account of these considerations in the process of revising the Penal Code. In the meantime, it requests the Government to provide information on the number of prosecutions brought and on any court decisions relating to the offences of slander and defamation and to indicate the facts which led to the convictions and penalties imposed.***

Article 1(c). Imposition of forced labour as a means of labour discipline. For a number of years, the Committee has been drawing the Government's attention to the need to amend certain provisions of the Merchant Shipping Penal and Disciplinary Code, which are contrary to the Convention, as they permit the imposition of prison sentences (including compulsory labour by virtue of sections 13 and 50(c) of the Regulations of the progressive regime of 9 July 1981) for certain breaches of labour discipline that do not endanger the safety of the vessel or the life or health of persons on board. Under section 132 of the Merchant Shipping Penal and Disciplinary Code, crew members who desert at the port of embarkation may be sentenced to up to one year in prison; the sentence may be two years if the desertion takes place in another port. Under section 137, crew members who do not obey an order from superiors, in relation to services that do not compromise the safety of the vessel, may be sentenced to from one to six months in prison. Simple refusal to obey an order, followed by voluntary execution of that order, is punishable by a maximum sentence of three months' imprisonment. The Committee noted in this regard that the new Merchant Shipping Act adopted in 2012 (Act No. 27/12) does not affect these provisions of the Merchant Shipping Penal and Disciplinary Code, as it does not regulate the legal regime governing the conditions of work of seafarers (section 57), which is to be the subject of special legislation. ***The Committee therefore once again requests the Government to take the necessary measures to ensure that these provisions of the Merchant Shipping Penal and Disciplinary Code are repealed or amended to ensure that breaches of labour discipline which do not endanger the safety of the vessel or the life or health of persons on board are not punishable by prison sentences. Please provide a copy of the new legislation that is adopted in this respect.***

Article 1(d). Imposition of prison sentences involving compulsory labour as a punishment for having participated in strikes. In its previous comments, the Committee drew the Government's attention to the need to amend the provisions of section 27(1) of the Act on strikes (Act No. 23/91 of 15 June 1991), under which the organizers of a strike that is prohibited or illegal or has been suspended by law are liable to prison sentences or fines. Therefore, pursuant to this section, compulsory labour (compulsory prison labour arising from conviction to a sentence of imprisonment) may be imposed on the organizer of a prohibited, illegal or suspended strike. The Committee emphasized in this regard that the legislation established a number of restrictions on the exercise of the right to strike, under the terms of which an action could be declared illegal, which should be lawful in the light of the principles of freedom of association (see the Committee's comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)).

The Committee notes with ***regret*** that the Government has not provided any information on the progress made in the process of revising the Act on strikes. ***The Committee trusts that the Government will take the necessary measures in the very near future to amend Act No. 23/91 on strikes to ensure that, in conformity with Article 1(d) of the Convention, persons who participate peacefully in a strike cannot be punished with a sentence of imprisonment during which they may be required to perform compulsory labour.***

Angola

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted that many children below the legal minimum age for admission to employment or work in Angola, mainly on family farms and in the informal economy, where their work is not monitored. It also noted the ILO–IPEC was implementing projects, including the Tackling Child Labour through Education (TACKLE) project, to prevent children from being engaged in child labour.

The Committee observes that the Government's report does not contain any information, as previously requested by the Committee. ***The Committee once again requests that the Government redouble its efforts to combat child labour. In this regard, it requests that the Government develop a national policy for the effective elimination of child labour and provide information on the measures taken in this regard. The Committee also requests that the Government provide detailed information on the manner in which the Convention is applied in practice, including, for example, statistical data on the employment of children and young persons, extracts from the reports of the inspection services, and information on the number and nature of violations detected and penalties applied involving children and young persons.***

Article 2(1) of the Convention. Scope of application and labour inspection. In its previous comments, the Committee noted that the General Labour Act of 2000 (Act No. 2/00) applies only to work performed on the basis of an employment relationship between an employer and a worker, and does not cover children who work in the informal economy or on their own account. In this regard, the Committee noted that the majority of children work in the informal sector. The Committee also noted the Government's statement that at the provincial level, measures had been taken to supervise the informal sector through monitoring units of the provincial governments. Moreover, measures had been taken to reduce the scope of the informal sector through formalization initiatives, including the opening of professional training schools for young people and mobile vocational training centres, by supporting micro-enterprises and through the provision of micro-credit grants.

The Committee notes the Government's information in its report that in June 2016, the Government, in collaboration with the labour inspectors and social partners, developed a programme to raise awareness among enterprises, including in the informal economy, on legislation prohibiting child labour and occupational safety and health legislation. In the first phase of this programme, the labour inspectors visited the five provinces of Luanda, Bengo, Bié, Cunene and Huila. ***The Committee encourages the Government to continue its efforts to protect children under the minimum age for admission to employment or work from child labour, including in the informal economy. In this regard, the Committee also encourages the Government to take measures to adapt and strengthen the labour inspection services and the provincial monitoring units so as to ensure that the protection envisaged by the Convention is provided to children who work on their own account or in the informal economy. It requests that the Government provide information on the measures taken in this regard and on the results achieved. The Committee also encourages the Government to pursue its efforts to reduce the scope of the informal economy, and to provide information on the impact of these measures with regard to working children.***

Article 3(2). Determination of hazardous work. In its previous comments, the Committee noted that Decree No. 58/82, which contained a comprehensive list of hazardous types of work prohibited for children under 18 years of age, was repealed by the General Labour Act of 2000 (Act No. 2/00). The Committee observed that the prohibition of hazardous work for minors in section 284(2) of Act No. 2/00 appeared to encompass only types of work which may harm the morals of children, and did not address types of work which may harm their health or safety.

The Committee notes with ***satisfaction*** the adoption of Joint Executive Decree No. 171/10 which contains a list of 57 types of hazardous activities prohibited for children under the age of 18 years. This list includes: work with dangerous chemicals and flammable liquids; manufacturing of asbestos, asphalt, rubber, cement, chlorine, explosives, fireworks and matches; bleaching process; work in welding shops; mirror tinning; meat processing; electricity; extraction of salt; dangerous machineries; electroplating; exposure to lime, lead, varnish, and radioactive substances and radiation; crystal and glass factories; melting, sharpening and polishing of metals and their alloys; quartz, gypsum, lime and stone grinding mills; slaughterhouses; potteries; paper factories; and maritime work. ***The Committee requests that the Government provide information on the application in practice of Decree No. 171/10, including statistics on the number and nature of violations reported and penalties imposed.***

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

Angola

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Angola

Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children. In its previous comments, the Committee noted that although Angolan law criminalizes kidnapping, forced labour and bonded servitude, it does not prohibit trafficking in persons, including children.

The Committee notes with ***satisfaction*** that section 19(2) of Law No. 3 of 2014 (on offences related to money laundering and organized crime) makes it an offence to offer, deliver, accept, transport, receive or accommodate a minor for purposes of sexual or labour exploitation with penalties of imprisonment ranging between 8 to 12 years. Section 23 of Law No. 3/2014 further provides for penalties for trafficking of minors abroad for sexual exploitation. ***The Committee requests the Government to provide information on the application in practice of sections 19(2) and 23 of Law No. 3/14 with regard to the trafficking of minors under the age of 18 years for sexual or labour exploitation.***

Article 4(1). Determination of hazardous types of employment or work. ***With regard to the adoption of the list of hazardous types of work prohibited to children under the age of 18 years, the Committee requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138).***

Article 7(2). Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education. The Committee previously noted the ILO–IPEC information that close to 44 per cent of all children in Angola do not attend school. It also noted the Government's indication that although the number of students attending primary school rose, there are high student failure and drop-out rates in the country and that due to familial poverty, only 37.2 per cent of all children who start the first grade will finish the sixth grade.

The Committee notes the information from UNESCO that despite the challenges emerging from a long and bloody war, Angola managed to triple the number of children in primary education from 2 to 6 million from 2002 to 2013. However, this excellent progress in access to primary education is marred by a low survival rate at primary level. Only a little over 30 per cent of school children achieve primary education, which is extremely low compared to the African average of 63 per cent. In this regard, the Committee notes that the Committee on Economic, Social and Cultural Rights, in its concluding observations of 15 July 2016, expressed concern at the low enrolment rates at all school levels, high dropout rates at primary level, particularly among girls and the limited access to quality education in rural areas (E/C.12/AGO/CO/4-5; paragraph 53). While noting the progress made with regard to access to primary education, the Committee expresses its ***concern*** at the low enrolment and completion rates at primary level and at the situation of several vulnerable groups of children who are less likely to attend and complete school. ***Considering that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee requests the Government to strengthen its efforts to improve the functioning of the education system and to facilitate access to free basic education, particularly for children from poor families, rural areas and girls. It requests the Government to provide information on the measures taken in this regard and the results achieved, particularly with regard to increasing school enrolment and completion rates and reducing drop-out rates in primary education.***

Clause (b). Removal of children from the worst forms of child labour and their rehabilitation and social integration. Child victims of trafficking and commercial sexual exploitation. The Committee previously noted the Government's indication that the abduction of children began during the armed conflict and with the end of the conflict, a child protection programme was introduced whereby thousands of children were taken into hostels and camps for displaced persons and refugees, particularly girls who had been victims of sexual exploitation or slavery. The Committee also noted the ILO–IPEC information that the sexual and economic abuse of girls and boys, including the trafficking of children in certain parts of the country, had emerged as a problem. It further noted that the National Plan of Action and Intervention against the Sexual and Commercial Exploitation of Children (NPAI SCEC), which included the objectives of protecting and defending the rights of child victims of sexual and commercial exploitation and preventing the social exclusion of these child victims was being revised.

The Committee notes the absence of information in the Government's report on this point. ***The Committee once again urges the Government to redouble its efforts with regard to identifying child victims of trafficking and commercial sexual exploitation, and ensuring that identified victims are referred to appropriate services for their rehabilitation and social reintegration. It requests the Government to provide information on the results achieved. It also requests the Government to indicate whether the NPAI SCEC has been revised and to provide information on the measures taken, within its framework, to protect and rehabilitate child victims of commercial sexual exploitation.***

Clause (d). 1. *Street children.* In its previous comments, the Committee noted the Government's indication that the displacement of a large number of people during the armed conflict gave rise to the phenomenon of street children. It also noted the Government's statement that although there had been a decrease in the number of children living on the street due to the relative improvement in the lives of the citizens, there remains a significant number of street children. Efforts were made to reintegrate street children into their biological families, or to place them in foster families, through the Family Tracing and Reunification Programme, which provided support to separated children in temporary institutions and reunited children with their families. The Government further indicated that cooperation was ongoing between different governmental partners to implement programmes to develop and upgrade the private institutions in which street children are sheltered (including the provision of integrated education and vocational training programmes).

The Committee notes that the Government's report does not contain any information on this point. ***Recalling that street children are particularly vulnerable to the worst forms of child labour, the Committee once again requests the Government to redouble its efforts to protect street children from the worst forms, and to provide for their rehabilitation and social reintegration. The Committee also requests the Government to provide information on the number of street children who have been provided with educational and vocational training opportunities in children's institutions.***

2. *Child orphans of HIV/AIDS and other vulnerable children (OVCs).* The Committee previously noted the Government's information that the number of OVCs in Angola was rising. It also noted the Government's indication that a National Action Plan for OVCs due to HIV/AIDS was under preparation, which includes strengthening family, community and institutional capacity to respond to the needs of OVCs, and an expansion of services and social protection mechanisms for these children. However, it noted the Government's indication in its Country Progress Report to UNGASS that only 16.8 per cent of households with OVCs received basic external support.

The Committee observes that the Government's report does not contain any information on this point. The Committee notes that according to the 2015 estimates of the UNAIDS, the number of orphans due to AIDS aged up to 17 years is approximately 130,000. ***The Committee recalls that OVCs are at an increased risk of being engaged in the worst forms of child labour and therefore urges the Government to take immediate and effective measures, within the framework of the National Action Plan for OVCs due to HIV/AIDS, to ensure that children orphaned by HIV/AIDS and other vulnerable children are protected from these worst forms. The Committee requests the Government to provide information on the concrete measures taken in this regard, and on the results achieved, particularly with regard to the percentage of households with OVCs receiving support services and grants.***

Application of the Convention in practice. In its previous comments, the Committee noted the Government's statement that children in Angola are involved in the worst forms of child labour, particularly in hazardous work (diamond mining and fishing), street labour and commercial sexual exploitation and trafficking. The Government stated that child trafficking was difficult to control due to the vast border and that Angolan children were taken from the capital city of the country and brought to the Democratic Republic of the Congo and that Congolese children were trafficked from Kinshasa into Angola.

The Committee notes the absence of information in the Government's report on this point. ***The Committee once again expresses its deep concern at the situation of persons under the age of 18 working in the worst forms of child labour, and accordingly urges the Government to redouble its efforts to ensure in practice the protection of children from these worst forms, particularly trafficking, commercial sexual exploitation, use in illicit activities and hazardous work. It also requests the Government to take the necessary measures to ensure that sufficient data on these worst forms of child labour is available, and to provide information on the nature, extent and trends of the worst forms of child labour, the number of children covered by the measures giving effect to the Convention, the number and nature of infringements, investigations, prosecutions, convictions and sanctions***

applied. To the extent possible, all information provided should be disaggregated by sex and age.

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

Benin

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of a general nature of the International Organisation of Employers (IOE), received on 1 September 2016. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, regarding acts of violence by the forces of order which disturbed a demonstration by teachers on 12 February 2015. ***The Committee requests the Government to provide its comments in response to these serious allegations by the ITUC.***

The Committee notes the Government's response to the allegations made in 2013 by the General Confederation of the Workers of Benin (CGTB) concerning violations of trade union rights in enterprises in the export processing zone. The Committee notes the indication that measures have been taken, in collaboration with the CGTB and other trade union confederations, to improve social dialogue and raise awareness of the rights of workers, which has resulted in an improvement in the social climate in the export processing zone.

Article 2 of the Convention. Right to establish trade unions without previous authorization. The Committee recalls that its previous comments have focused for many years on the need to amend section 83 of the Labour Code, which requires trade unions to deposit their by-laws with numerous authorities, in particular the Ministry of the Interior, in order to obtain legal status and legal personality. In its latest report, the Government indicates that the most recent draft revision of the Labour Code, which is still in progress, has taken into account the Committee's recommendations in the provisions of section 231, which it describes. ***The Committee trusts that the process of revising the Labour Code will be concluded rapidly and that the Government will very shortly report the amendment of section 83 of the Labour Code as indicated and provide a copy of the revised Labour Code when adopted.***

Right of workers, without distinction whatsoever, to establish trade unions. Finally, in its previous comments the Committee requested the Government to specify the legislative or regulatory provisions that explicitly grant the trade union rights set out in the Convention. The Committee notes the Government's indication that it does not plan to amend the texts governing seafarers, in particular Act No. 2010-11 of 27 December 2010 issuing the Merchant Navy Code. The Government specifies that general texts on seafarers grant them the right to organize and that, in practice, there are trade union organizations and associations that defend the interests of seafarers, and particularly the National Union of Seafarers of Benin, established in 1996, and the Seafarers' Welfare Board, established in 2015. The Committee has previously referred to the General Conditions of Service of Seafarers of the Republic of Benin (Act No. 98-015), section 78 of which recognizes the right to organize of all seafarers. ***The Committee requests the Government to confirm that Act No. 98-015 is still in force following the adoption of the Merchant Navy Code of 2010 and that it confers on seafarers all the guarantees of the Convention with regard to freedom of association, in the absence of more specific provisions in the legislation.***

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Article 1(1)(a) and (3) of the Convention. Grounds of discrimination and scope of application. Legislation. The Committee notes the Government's indication in its report, in response to the previous comments concerning colour and national extraction, that section 6 of the draft new Labour Code, which is currently being examined by the Supreme Court, provides that "any discrimination in respect of employment and conditions of work, particularly on the basis of race, ethnicity, colour, sex, religion, political opinion, trade union membership or national extraction, shall be prohibited". While welcoming this progress, the Committee draws the Government's attention to the fact that social origin no longer seems to be one of the prohibited grounds of discrimination, in contrast to the provisions of section 5 of the Labour Code of 1998, which is currently in force. The Committee recalls that when legal provisions are adopted to give effect to the principle of the Convention must include, as a minimum, all the grounds of discrimination listed in *Article 1(1)(a)* of the Convention. ***The Committee requests the Government to take the necessary measures in the context of the planned reform of the Labour Code to ensure that all forms of direct and indirect discrimination based, as a minimum, on all the grounds listed in the Convention, including colour, national extraction and social origin, are expressly prohibited in the new Labour Code. It also requests the Government to confirm that recruitment (access to employment) is indeed covered by the term "employment", mentioned in section 6 of the draft Labour Code.***

Article 2. National equality policy. With reference to its previous comments, the Committee notes the Government's indication that it plans to initiate a process to draw up a national equality policy and a national plan to combat discrimination, and requests the technical assistance of the Office to this end. ***Expressing the hope that the requested technical assistance will be provided by the Office in the near future, the Committee requests the Government to provide information on the progress made with the preparation, in collaboration with employers' and workers' organizations, and the adoption of a national equality policy and a national plan to combat discrimination, with a view to eliminating discrimination in employment and occupation. The Government is requested to provide a copy of these texts when they are adopted.***

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

Botswana

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature. The Committee also notes the observations from: the International Trade Union Confederation (ITUC) received on 1 September 2016, referring mainly to matters currently or previously addressed by the Committee and alleging lockout of workers in the mining sector; the ITUC and the Botswana Federation of Trade Unions (BFTU) received jointly on 1 September 2016, concerning new amendments of the Trade Disputes Act (TDA); the BFTU received on 13 September 2016; and Education International (EI) and the Trainers and Allied Workers Union (TAWU) received on 12 October 2016. ***The Committee requests the Government to provide its comments on these observations, as well as on the pending observations made by: the TAWU in 2013 (alleging favouritism of certain trade unions by the Government); the ITUC in 2013 (alleging acts of intimidation against public workers); and the ITUC in 2014 (alleging violations of trade union rights in practice).***

Article 2 of the Convention. Right to organize of prison staff. In its previous comments, the Committee once again requested the Government to take the necessary measures to amend section 2(1)(iv) of the Trade Unions and Employers Organisations Act (TUEO Act) and section 2(11)(iv) of the TDA, which exclude employees of the prison service from their scope of application, as well as section 35 of the Prison Act, which prohibits members of the prison service from becoming members of a trade union or any body affiliated to a trade union. The Committee notes the Government's indication that the prison service is part of the disciplined force and that amendments to the stated laws would not alter their situation, but that civilian personnel in prisons, governed by the Public Service Act and the Employment Act, are allowed to unionize and that 50 such workers are members of trade unions. As regards the Government's statement that the prison service is part of the disciplined force justifying its exclusion from the Convention, the Committee observes that while the prison service does form part of the disciplined force of Botswana together with the armed forces and the police (article 19(1) of the Constitution), each of these categories is governed by separate legislation – the Prison Act, the Police Act and the Botswana Defence Force Act – and the Prison Act as a separate statute does not appear to provide members of the prison service with the status of the armed forces or the police. The Committee, therefore, considers that the prison service cannot be considered to be part of the armed forces or the police for the purposes of exclusion under *Article 9.* ***The Committee requests the Government once again to take the necessary measures, including the pertinent legislative amendments, to grant members of the prison service all rights guaranteed by the Convention. The Committee requests the Government to provide information on any developments in this regard.***

Article 3. Right of workers' organizations to organize their activities and formulate their programmes. In its previous comments, the Committee noted with interest the decision of the High Court of Botswana which found that Statutory Instrument No. 57 of 2011 declaring veterinary services, teaching services and diamond sorting, cutting and selling services, and all support services in connection therewith to be essential, was unconstitutional and therefore "invalid" and "of no force and effect". However, the Committee notes with ***concern*** the indication of the BFTU that section 46 of the new Trade Disputes Bill (Bill No. 21 of 2015) enumerates a broad list of essential services, including the Bank of Botswana, diamond sorting, cutting and selling services, operational and maintenance services of the railways, veterinary services in the public service, teaching services, government broadcasting services, immigration and customs services, and services necessary to the operation of any of these services. The Committee also observes that in line with section 46(2) of the Trade Disputes Bill, the Minister may declare any other service as essential if its interruption for at least seven days endangers the life, safety or health of the whole or part of the population or harms the economy. Recalling that, in light of the right of workers' organizations to organize their activities and formulate their programmes, essential services, in which the right to strike may be prohibited or restricted, should be limited to those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, the Committee considers that the services enumerated do not constitute essential services in the strict sense of the term and that harm to the economy caused by the interruption of a service is insufficient to consider it as an essential service. ***The Committee requests the Government to take the necessary measures to amend the draft Trade Disputes Act to reduce the list of essential services accordingly.***

The Committee had also previously requested the Government to provide information on the progress made in relation to the amendment of section 48B(1) of the TUEO Act, which grants certain facilities only to unions representing at least one third of the employees in the enterprise, and section 43 of the TUEO Act which provides for inspection of accounts, books and documents of a trade union by the Registrar at "any reasonable time". The Committee notes the Government's statement that the amendment process of the TUEO Act is ongoing and that the social partners have submitted their proposals for amendments. The Committee further notes that the BFTU indicates that the Government had requested it to submit proposals for amendment of the TUEO Act but that no discussion has taken place on the subject matter. ***The Committee trusts that, in the framework of the ongoing amendment process of the TUEO Act and in consultation with the social partners, the abovementioned provisions will be amended taking fully into account the Committee's comments. The Committee requests the Government to provide information on any developments in this regard and to provide the text of the amended TUEO Act once adopted.***

The Committee further observes that a new Public Service Bill, 2016, is in the process of being adopted and should replace the Public Service Act, 2008. ***The Committee requests the Government to provide a copy of the Public Service Act upon its adoption or, if not yet adopted, the Bill in its current form.***

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

Botswana

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

Botswana

The Committee takes note of the observations from: the International Trade Union Confederation (ITUC) received on 1 September 2016, reiterating its previous observations and referring to matters addressed by the Committee; the Botswana Federation of Trade Unions (BFTU) received on 13 September 2016, alleging that in relation to collective bargaining, the Government is adopting repressive measures instead of facilitating and promoting adherence to the Convention; and Education International (EI) and the Trainers and Allied Workers Union (TAWU) received on 12 October 2016, denouncing: (i) a stringent requirement to be recognized as a collective bargaining agent (one third of the employees of the employer); (ii) exclusion of profession-based trade unions from collective bargaining at the national level; and (iii) persistent persecution of trade union leaders for union activities. ***The Committee requests the Government to provide its comments on these observations, as well as on the pending observations made by the TAWU in 2013 and by the ITUC in 2013 and 2014, alleging violations of the right to collective bargaining in practice.***

Scope of the Convention. The Committee had previously requested the Government to amend section 2 of the Trade Disputes Act (TDA) and section 2 of the Trade Union and Employers' Organisations Act (TUEO Act), which exclude employees of the prison service from their scope of application, as well as section 35 of the Prison Act, which deprives members of the prison service from the right to unionize under the threat of being dismissed. The Committee notes the Government's indication that the prison service is part of the disciplined force and that amendments to the stated laws would not alter their situation, but that civilian personnel in prisons, governed by the Public Service Act and the Employment Act, are allowed to unionize and that 50 such workers are members of trade unions. As regards the Government's statement that the prison service is part of the disciplined force justifying its exclusion from the Convention, the Committee observes that while the prison service does form part of the disciplined force of Botswana together with the armed forces and the police (article 19(1) of the Constitution), each of these categories is governed by a separate legislation – the Prison Act, the Police Act and the Botswana Defence Force Act – and the Prison Act does not appear to provide members of the prison service the status of the armed forces or the police. The Committee, therefore, considers that the prison service cannot be considered to be part of the armed forces or the police for the purposes of exclusion under *Article 5* of the Convention. ***The Committee requests the Government once again to take the necessary measures, including the pertinent legislative amendments, to grant members of the prison service all rights guaranteed by the Convention. The Committee requests the Government to provide information on any developments in this regard.***

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee had previously examined the ITUC concern that if a union was not registered, its committee members were not protected against anti-union discrimination, and had recalled the importance of legislation prohibiting and specifically sanctioning all acts of anti-union discrimination as set out in *Article 1* of the Convention. In its previous comments, the Committee requested the Government to take the necessary measures to ensure that all union committee members, including those of unregistered trade unions, enjoy an adequate protection against anti-union discrimination. The Committee ***regrets*** that the Government failed to provide any comments on this point and it underlines that the fundamental rights accorded by the Convention to members or officers of trade unions, such as protection against acts of anti-union discrimination, cover all workers wishing to establish or join a trade union; therefore, such protection should not be dependent on the registered or unregistered status of a trade union, even if the authorities consider registration to be a simple formality. ***In these circumstances, the Committee reiterates its previous request.***

Articles 2 and 4. Adequate protection against acts of interference; promotion of collective bargaining. In its previous comments, the Committee had requested the Government to provide information on the progress made in respect to: (i) the adoption of specific legislative provisions ensuring adequate protection against acts of interference by employers coupled with effective and sufficiently dissuasive sanctions; (ii) the repeal of section 35(1)(b) of the TDA, which permits an employer or employers' organization to apply to the commissioner to withdraw the recognition granted to a trade union on the grounds that the trade union refuses to negotiate in good faith with the employer; and (iii) the amendment of section 20(3) of the TDA (this section read together with section 18(1)(a) and (e) allows the Industrial Court to refer a trade dispute to arbitration, including where only one of the parties made an urgent appeal to the Court for determination of the dispute) so as to ensure that the recourse to compulsory arbitration does not affect the promotion of collective bargaining. In this regard, the Committee recalls that compulsory arbitration is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), or in essential services in the strict sense of the term or in cases of acute national crises. The Committee further observes that a draft TDA Bill (Bill No. 21 of 2015) is in the process of being adopted but ***regrets*** that the Committee's comments have not been reflected in the draft Bill and that the Government fails to provide any information on this point. ***The Committee, therefore, reiterates its request to the Government and trusts that it will be able to observe progress in this regard in the near future. The Committee encourages the Government to avail itself of the technical assistance of the Office, if it so wishes.***

The Committee had previously noted that, in terms of section 48 of the TUEO Act, as read with section 32 of the TDA, the minimum threshold for a union to be recognized by the employer for collective bargaining purposes is set at one third of the relevant workforce. It had therefore requested the Government to ensure that where no union represented one third of the employees in a bargaining unit, collective bargaining rights would be granted to all unions in the unit, at least on behalf of their own members. The Committee observes, however, that section 35 of the TDA Bill does not implement these changes but merely reproduces the text of section 32 of the TDA in this regard. Additionally, the Committee notes that section 37(5) of the draft TDA Bill also provides a one third minimum threshold requirement for union recognition at the industry level. The Committee recalls that the determination of the threshold of representativity to designate an exclusive agent for the purpose of negotiating collective agreements which are destined to be applied to all workers in a sector or establishment is compatible with the Convention in so far as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice. In this regard, the Committee considers that if no union in a specific negotiating unit meets the required threshold of representativity to be able to negotiate on behalf of all workers, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members. ***Regretting that no information has been provided in this respect, the Committee requests the Government to take the necessary measures to ensure that if no union reaches the required threshold to be recognized as a bargaining agent, unions should be given the possibility to negotiate, jointly or separately, at least on behalf of their own members.***

Collective bargaining in the public sector. In its previous comments, the Committee requested the Government to clarify whether the provisions of the Public Service Regulations, 2011 (Statutory Instrument No. 50), providing for general conditions of service in the public sector (hours of work, shift work, weekly rest periods, paid public holiday, overtime and annual paid leave), constituted fixed conditions of service or rather minimal legislative protection clauses on the basis of which the parties are able to negotiate special modalities and additional benefits. The Committee notes the Government's indication that some provisions of the Instrument constitute fixed conditions of service while for others the parties may determine special modalities and additional benefits, as long as they are in conformity with the Public Service Act, 2008. However, the BFTU indicates that it is unclear from the Government's report which provisions are fixed and which are not. ***Recalling that measures taken unilaterally by the authorities to restrict the scope of negotiable issues are generally incompatible with the Convention and that tripartite discussions for the preparation, on a voluntary basis, of guidelines for collective bargaining are a particularly appropriate method of resolving these difficulties, the Committee requests the Government to specify which provisions of the Public Service Regulations are not open for negotiation and invites the Government to reconsider the limitation imposed on the scope of collective bargaining for public sector workers not engaged in the administration of the State.***

The Committee further observes that a new Public Service Bill, 2016, is in the process of being adopted and should replace the Public Service Act, 2008, and that the TUEO Act is also in the process of being amended. ***The Committee trusts that the Government will ensure full conformity of both the Public Service Bill, 2016, and the amended TUEO Act with the Convention. In this regard, the Committee encourages the Government to avail itself of the technical assistance of the Office, if it so wishes.***

Botswana

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

Article 1 of the Convention. Equal remuneration for men and women for work of equal value. Legislation. The Committee recalls that the principle of equal remuneration for work of equal value is not reflected in the national legislation, but that since 2002 the Government has been indicating that amendments to the Employment Act of 1982 were under consideration with a view to incorporating the provisions of the Convention. The Committee had therefore asked the Government to ensure that full legislative expression be given to the principle of equal remuneration for men and women for work of equal value in the Employment Act of 1982. It had noted that the most recent amendment to this Act in 2010 still did not incorporate this principle. The Committee notes that the Government once again indicates in its report that the process of amending the Employment Act of 1982 has started, and that this process will incorporate provisions on the principle of equal remuneration for men and women for work of equal value. ***In light of the above and with a view to ensuring that men and women have a legal basis for asserting their right to equal remuneration with their employers and before competent authorities, the Committee urges the Government to take, without further delay, the necessary measures to ensure that substantial progress will be made in the revision of the Employment Act of 1982, and that the Act, once revised, will give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The Committee asks the Government to provide information on the status of the revision process, including on any specific action taken to amend the law in accordance with the Convention.***

Article 2. Minimum wages. The Committee recalls that the Minimum Wage Advisory Board is competent to submit recommendations to the Minister to fix or adjust wages in all sectors of activity under section 132 of the Employment Act of 1982, and that it has requested the Government to ensure that the principle of equal remuneration for men and women for work of equal value is taken into account by the Minimum Wage Advisory Board and is fully reflected in the minimum wage setting process. The Committee notes that the Government once again merely indicates that the process of amending the Employment Act of 1982 has started. ***Recalling that special attention is needed in the design or adjustment of sectoral minimum wage schemes to ensure that the rates fixed are free from gender bias, the Committee trusts that the Government will take the necessary measures to ensure that the principle of equal remuneration for men and women for work of equal value is taken into account by the Minimum Wage Advisory Board and fully reflected in the minimum wage setting process, and asks the Government to provide full information on any steps taken in this regard.***

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

[The Government is asked to reply in full to the present comments in 2017.]

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Article 1 of the Convention. Protection from discrimination. Grounds of discrimination. Aspects of employment. Legislation. The Committee recalls that the 2010 amendment to the Employment Act of 1982 (restricting the grounds on which employers may terminate a contract of employment): (i) removed the grounds of "national extraction" and "political opinion" from the list of prohibited grounds of discrimination (section 23(d)); (ii) inserted three new prohibited grounds (sexual orientation, health status and disability); and (iii) inserted a general prohibition of discrimination (new section 23(e)) that prohibits termination on grounds of "any other reason which does not affect the employee's ability to perform that employee's duties under the contract of employment". The Committee recalls its request to the Government to take the necessary steps to amend section 23(d) of the Employment Act of 1982 in order to explicitly prohibit discrimination based on all the grounds set out in *Article 1(1)(a)* including "national extraction" and "political opinion", and in all aspects of employment; and to provide information on the application in practice of section 23(e) of the Employment Act. The Committee notes the Government's indication, in its report, that the process of amending the Employment Act has started with the intent to include such provisions. It notes however that no information is given regarding the application in practice of section 23(e) of the Employment Act. ***The Committee requests the Government to provide updated information on the steps taken to amend the Employment Act of 1982, including measures taken to ensure that section 23(d) of the Employment Act expressly prohibits discrimination based on "political opinion" and "national extraction" and covers all aspects of employment and occupation, including recruitment and terms and conditions of employment (and not only termination). The Committee repeats its request to the Government to provide information on the application in practice of section 23(e) of the Employment Act, including any interpretation by the administrative or judicial authorities.***

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

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

Observation 2016

The Committee notes the observations of the Botswana Federation of Trade Unions (BFTU), communicated together with the Government's report.

Article 5(1) of the Convention. Effective tripartite consultations. The Government provides in its report information on the activities of the Labour Advisory Board (LAB), indicating that it met in September 2015 and discussed legislative amendments. The Government adds that the Minimum Wages Advisory Board (MWAB) met in March 2016 and recommended a 6 per cent adjustment across the board, which was approved by the Government and came into effect on 1 June 2016. The BFTU confirms the information provided by the Government and expresses its concern that the LAB and the MWAB are the only true tripartite national structures, adding that their mandate is very limited to effectively meet the requirements for consultation on economic, labour and social matters. The BFTU is of the view that, on many occasions, the two tripartite bodies are used for the fulfilment of statutory requirements rather than to pursue good faith consultations with the social partners, and that there have been many occasions when the Government has disregarded advice from the two bodies without providing reasons. Moreover, the BFTU indicates that the two bodies are poorly resourced and are not able to adequately deliver on their mandates. Meetings are irregular due to both financial and human resources. ***The Committee once again requests the Government to provide information on the effective consultations held with the social partners on each of the matters concerning international labour standards listed in Article 5(1) of the Convention. In addition, the Committee requests the Government to provide information on the activities of the Labour Advisory Board and the Minimum Wage Advisory Board, indicating the frequency and the nature of any reports or recommendations from these Boards regarding international labour standards.***

Burkina Faso

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, concerning the continued obstacles to the application of the Convention, and the Government's reply on this subject. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature.

In its previous comments, the Committee requested the Government to amend certain legislative provisions to bring them into conformity with *Articles 2 and 3 of the Convention*:

·-section 386 of the Labour Code, under the terms of which the exercise of the right to strike shall on no account be accompanied by the occupation of the workplace or its immediate surroundings, subject to the penal sanctions established in the legislation in force. In this regard, the Committee recalled that restrictions on strike pickets and the occupation of the workplace are acceptable only where the action ceases to be peaceful. However, it is necessary in all cases to ensure observance of the freedom of non-strikers to work and the right of management to enter the premises;

·-the Order of 18 December 2009, issued under section 384 of the Labour Code, which lists establishments that may be subject to requisitioning for the purpose of ensuring a minimum service in the event of a strike. The Committee observes that certain of the services contained in the list could not be considered essential services or require the maintenance of a minimum service in the event of a strike, such as mining and quarrying, public and private slaughterhouses, university centres. The Committee therefore requested the Government to revise the list of establishments which may be subject to requisitioning for the purpose of ensuring a minimum service in the event of a strike to ensure that requisitioning is only possible in: (i) services the interruption of which would endanger the life, personal safety or health of the whole or part of the population (essential services in the strict sense of the term); (ii) services which are not essential in the strict sense of the term, but in which strikes of a certain extent and length could give rise to an acute crisis threatening the normal living conditions of the population; or (iii) public services of fundamental importance.

The Committee notes the Government's indication that the process of revising the Labour Code has commenced, in consultation with the social partners, and that following the revision, the Order of 18 December 2009 referred to above respecting requisitioning will be amended as a consequence. ***The Committee trusts that the Labour Code will be adopted in the near future and that it will give full effect to the provisions of the Convention on the points recalled above. It requests the Government to provide a copy of the Labour Code when it has been adopted, and any relevant implementing texts.***

As regards its previous comments on the right of minors to join trade unions, the Committee requests the Government to provide information on the impact of the intervention of parents or guardians under section 283 of the Labour Code on the ability of 16-year-old workers or apprentices to join trade unions.

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

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, concerning persistent obstacles to the application of the Convention, and the Government's reply on this subject.

Articles 4 and 6 of the Convention. Collective bargaining in the public sector. With reference to its previous comments, the Committee notes the Government's indication that Act No. 081 2015/CNT of 24 November 2015 issuing the general regulations of public service, which repeals contravening provisions of Act No. 013/98/AN of 28 April 1998 establishing the legal regime applicable to posts and employees in Civil Service, as amended by Act No. 019-2005/AN of 18 May 2005, public servants are entitled to engage freely in bargaining and to conclude agreements in their sectors of activity, although in practice no collective agreement has been negotiated or concluded in the public sector. The Committee notes that, while the national legislation provides that civil servants can establish associations or occupational trade unions and exercise the right to strike within the framework defined by the legislative texts in force (sections 69 and 70 of Act No. 081-2015), the right to collective bargaining of public servants not engaged in the administration of the State is not explicitly recognized. ***In the absence of new information brought to its knowledge, the Committee once again requests the Government to take the necessary measures to ensure the right to collective bargaining of public servants not engaged in the administration of State and to establish adequate machinery to promote the exercise of this right. The Committee requests the Government to provide information on its next report on any developments in this regard, and on any collective agreements concluded in the public sector. The Committee reminds the Government that it can, if it so wishes, have recourse to the technical assistance of the Office.***

Burkina Faso

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

Article 1 of the Convention. Equal remuneration for men and women for work of equal value. Legislation. In its previous comments, the Committee emphasized that the 2008 Labour Code (in the same way as the 2004 Labour Code) does not clearly reflect the principle of the Convention. Although it explicitly establishes the principle of equal remuneration for men and women for work of equal value (section 182(3)), it also provides for equal wages for workers irrespective of sex "under equal conditions of work, vocational qualifications and output" (section 182(1)). The Committee drew attention to the fact that the coexistence of these two provisions may be a source of confusion or even conflict when applying the principle in practice. The Committee notes the information provided by the Government in its report to the effect that, in the context of the forthcoming revision of the Labour Code, a study has been conducted with ILO support on bringing the provisions of the Labour Code into conformity with the ILO fundamental and governance Conventions. The recommendations of the study include the revision of section 182, in response to the Committee's comments. During the tripartite presentation and validation workshop for this study held in March 2014, a roadmap was adopted and subsequently translated into a plan of action, which is currently being implemented. In this regard, the Committee draws the Government's attention to the fact that the concept of "work of equal value" relates to the very nature of the work, that is the tasks to be performed, and involves the evaluation of the content of the work based on objective and non-sexist criteria, such as skills and qualifications, physical and mental effort, responsibilities and working conditions. To limit work of equal value to work performed under equal conditions of work, vocational qualifications and output restricts the basis for the comparison of such work, and therefore hinders the full application of the principle of the Convention (see 2012 General Survey on the fundamental Conventions, paragraphs 672–677). ***The Committee therefore requests the Government to provide information on the progress achieved in the implementation of the plan of action of the roadmap referred to above, in particular on any measures taken to revise section 182 of the 2008 Labour Code.***

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

Burundi

C011 - Right of Association (Agriculture) Convention, 1921 (No. 11)

Observation 2016

The Committee recalls that for many years its comments have referred to the need to amend Decree No. 1/90 of 25 August 1967 on rural associations, which provides that, in the event that the public authorities, through a public donation, undertake a project aiming at, inter alia, the development of land and livestock, the Minister of Agriculture may establish rural associations (section 1), membership of which is compulsory (section 3), and that the Minister determines their statutes (section 4). It also provides that the obligations of agricultural workers who are members of these associations include the provision of services for the common enterprise, the payment of a single or regular contribution, the provision of agricultural or livestock products and the observance of rules respecting cultural discipline and other matters (section 7), under penalty of the seizure of the member's property (section 10).

The Committee notes with ***regret*** that in its report the Government has limited itself to reiterating that the Decree in question has not yet been repealed but that its repeal should take place without further delay. ***The Committee firmly expects that the Government will finally take the necessary measures to amend or repeal Legislative Decree No. 1/90 of 25 August 1967. The Committee requests the Government to provide information on this subject.***

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2016

The Committee notes the observations of the Trade Union Confederation of Burundi (COSYBU), received on 26 November 2015. The Committee also notes with ***deep concern*** that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

Articles 1(1) and 2(1) of the Convention. 1. *Compulsory community development work.* The Committee previously noted the Government's indication that Legislative Decree No. 1/16 of 29 May 1979, which established the obligation to carry out community development work under penalty of sanctions, had been replaced by Act No. 1/016 of 20 April 2005 organizing municipal administration. According to this Act, which aims at promoting the economic and social development of municipalities not only on an individual but also on a collective and unified basis, municipalities may cooperate through a system of inter-municipality, and it is up to the municipal council to establish the community development programme, monitor its implementation and carry out the evaluation thereof. The Act also provides for a regulatory text determining the organization, mechanisms and functioning of the "inter-municipality" system. The Committee noted that although the principle of community work was upheld in the Act, it did not explicitly provide for the voluntary nature of this work or establish the rules for participation in it. It also noted, according to information available on the Internet site of the Government and the national assembly, that community work seemed to be organized on a weekly basis and included work of reforestation, cleaning and the construction of economic and social infrastructure such as schools, colleges and health centres.

The Committee notes that the COSYBU submitted observations on the participation in and organization of compulsory community development work in 2008, 2012, 2013 and 2014. It stated that community work is decided upon unilaterally without the population being consulted and that the police are mobilized to close the streets and therefore prevent the movement of persons during this work. The COSYBU requested the Government to find a solution as soon as possible to ensure that the legislation specifically made a reference to the voluntary nature of participation in this work.

While noting that the Government previously indicated that the legislation does not provide for penalties to be imposed on persons who failed to carry out community work, the Committee observes that community work is carried out by the population without there being a text regulating the nature of this work or rules determining how this work might be required or the way in which it is organized. ***In these circumstances, the Committee once again expresses the hope that the Government will take the necessary steps to adopt the text applying Act No. 1/016 of 20 April 2005 organizing municipal administration, particularly with respect to the participation in and organization of community work, to ensure that the voluntary nature of participation in this work is explicitly set out in the legislation. Meanwhile the Committee asks the Government to provide information on the type and duration of the community work carried out and the number of persons concerned.***

2. *Compulsory agricultural work.* For many years, the Committee has been requesting the Government to take the necessary measures to bring a number of texts providing for the compulsory participation in certain types of agricultural work into line with the Convention. It has stressed the need to set out in the legislation the voluntary nature of agricultural work resulting from obligations relating to the conservation and utilization of the land and the obligation to recreate and maintain minimum areas for cultivation (Ordinances Nos 710/275 and 710/276 of 25 October 1979), as well as the need to formally repeal certain texts on compulsory cultivation, porterage and public works (Decree of 14 July 1952, Ordinance No. 1286 of 10 July 1953 and the Decree of 10 May 1957). ***Noting that the Government previously indicated that these texts, which dated from the colonial period, had been repealed and that the voluntary nature of agricultural work has now been set out in the legislation, the Committee asks the Government once again to send a copy of the texts that repeal the abovementioned legislation and set out the voluntary nature of agricultural work.***

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

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

Burundi

C062 - Safety Provisions (Building) Convention, 1937 (No. 62)

Observation 2016

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

Article 4 of the Convention. Inspection system. Further to its previous comments, the Committee notes from the information provided that the Government will explore possibilities for training labour inspectors to monitor safety prescriptions in the building sector. The Government nevertheless points out in its report that managers in charge of occupational risk prevention at the National Social Security Institute (INSS) are qualified to carry out inspections in the building sector and that they give useful instructions to the employers concerned. ***The Committee requests the Government to provide information in its next report on the practical application of this provision of the Convention.***

Articles 6–15. With reference to its previous comments, the Committee notes that, according to the Government, the legislation governing occupational safety has not been repealed and that Rwanda-Urundi (ORU) Ordinance No. 21/94 of 24 July 1953 establishing the legal framework for occupational safety in the building industry has not been revoked, and that the Government is envisaging its re-dissemination. ***The Committee requests the Government to provide clarification on the legislation in force to enable it to assess how the Convention is applied in Burundi.***

Application in practice. Further to its previous comments, the Committee notes the statistical data in the Government's report showing trends in the number of active workers and the numbers receiving occupational risk benefits between 2000 and 2004, and the distribution of enterprises according to size and branch of economic activity at 31 December 2004. ***The Committee requests the Government to provide further information in its next report regarding trends in accidents in the building industry, together with any other relevant information allowing the Committee to assess how the safety standards established in the Convention are applied in practice.***

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

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations made by the International Trade Union Confederation (ITUC), received on 31 August 2016, relating to matters raised by the Committee and allegations of administrative suspension of a trade union. ***The Committee requests the Government to provide comments on this subject.*** The Committee notes the observations made by the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature.

The Committee notes with ***regret*** that the Government confines itself in its report to indicating that the Committee's comments will be taken into account within the context of the current revision of the relevant legislation. It recalls that its previous comments related to the following points:

Article 2 of the Convention.

·-*Right of public employees without distinction whatsoever to establish and join organizations of their own choosing.* This concerns the absence of regulations respecting the exercise of the right to organize of magistrates, which is behind the difficulties experienced in the registration of the Trade Union of Magistrates of Burundi (SYMABU).

·-*Right to organize of minors.* Section 271 of the Labour Code provides that minors under the age of 18 may not join a trade union of their own choosing without the explicit authorization of their parents or guardians.

Article 3. Election of trade union officers.

·-*Criminal record.* Under the terms of section 275(3) of the Labour Code, persons are excluded from trade union office if they have been sentenced to imprisonment without suspension of sentence for more than six months. The Committee recalls that conviction for an act which, by its nature, does not call into question the integrity of the person and implies no real risk for the performance of trade union duties should not constitute grounds for exclusion from trade union office.

·-*Belonging to the occupation.* Section 275(4) of the Labour Code provides that trade union leaders must have belonged to the occupation or trade for at least one year. The Committee previously requested the Government to make the legislation more flexible by allowing persons who had previously worked in the occupation to stand for office or by lifting this requirement for a reasonable proportion of trade union officers.

Right of organizations to organize their activities and to formulate their programmes in full freedom. Procedures for the exercise of the right to strike.

·-*Compulsory procedures prior to calling a strike* (sections 191–210 of the Labour Code). This series of procedures appears to empower the Minister of Labour to prevent any strikes.

·-*Voting requirements to call a strike.* Under the terms of section 213 of the Labour Code, strikes are lawful when they are called with the approval of a simple majority of the employees of the workplace or enterprise. The Committee recalls that the ballot method, the quorum and the majority required should not be such that the exercise of the right to strike becomes unduly difficult in practice. If a country deems it appropriate to require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see 2012 General Survey on the fundamental Conventions, paragraph 147).

·-*Legislative Decree prohibiting demonstrations and the exercise of the right to strike during election periods.* According to the Government, this Legislative Decree has still not been repealed.

Recalling that the matters raised above have been the subject of its comments for many years, the Committee notes that, according to the Government's statement, it undertakes to give effect to them and that the revision of the Labour Code is under way. The Committee trusts that the Government will be in a position to provide information in the very near future on the progress made in this work and to provide the text of the revised Labour Code as soon as it has been adopted. The Committee recalls that the Government may avail itself of ILO technical assistance in this regard.

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

Burundi

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, relating to matters examined by the Committee in the present comment, and containing allegations of anti-union discrimination. ***The Committee requests the Government to provide its comments with respect to these allegations.***

The Committee notes with ***regret*** that no progress has been achieved in the application of the Convention and that the Government confines itself to indicating that the Committee's comments will be taken into account in the context of the current revision of the relevant legislation and regulations.

Articles 1, 2 and 3 of the Convention. Adequate protection against acts of anti-union discrimination and interference. The Committee previously emphasized the non dissuasive nature of the sanctions established by the Labour Code for acts of anti-union discrimination and interference. ***The Committee trusts that the respective provisions will be amended within the context of the revision of the Labour Code.***

Article 4. Right to collective bargaining in practice. The Committee recalled previously that, although nothing in the Convention places a duty on the Government to ensure the application of collective bargaining through compulsory means in relation to the social partners, that does not mean that governments should refrain from taking any measures aimed at promoting collective bargaining mechanisms. ***The Committee once again requests the Government to provide information on the specific measures taken to promote collective bargaining, and to provide information of a practical nature on the situation with regard to collective bargaining, including the number of collective agreements concluded up to now, the sectors and the number of workers covered. The Committee hopes that the Government will be in a position to indicate substantial progress in its next report.***

Articles 4 and 6. Right of collective bargaining for public servants not engaged in the administration of the State. The Committee previously noted the Government's indications that public servants participate in the determination of their terms and conditions of employment. According to the Government, their right of collective bargaining is recognized, for which reason agreements exist in the education and health sectors. In the case of public establishments and personalized administrations (enjoying legal personality and autonomy in management) employees participate in the determination of remuneration, as they are represented on the governing councils, and wage claims are submitted to employers by enterprise councils or trade unions, with the competent minister only intervening to safeguard the general interest. In certain ministries, trade unions have obtained bonuses to supplement wages.

The Committee recalls that pursuant to *Article 4* of the Convention, governments shall take measures appropriate to national conditions to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements. ***The Committee requests the Government to continue providing information on the measures taken or envisaged to ensure that organizations of public servants not engaged in the administration of the State have at their disposal mechanisms which allow them to bargain collectively on the terms and conditions of their employment, including wages. The Committee requests the Government to provide information on any agreement on conditions of employment, including wages, concluded in the public sector.***

Cabo Verde

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

Article 1 of the Convention. Work of equal value. Legislation. In its previous comments, the Committee referred to the fact that article 62 of the Constitution which provides for the principle of equal remuneration for equal work, and section 16 of the Labour Code which provides that all workers have the right to fair remuneration according to the nature, quantity and quality of work were more restrictive than the principle of equal remuneration for work of equal value provided for in the Convention. The Committee also requested information on the practical application of section 15(1)(b) of the Labour Code which provides that equity at work includes the right to receive special compensation; a compensation which is not allocated to all workers, but which is based, among other grounds, on sex. The Committee notes that the Government reiterates the information provided in its previous report. The Committee further notes the adoption of Legislative Decree 1/2016 of 3 February 2016, which revises the Labour Code. The Committee notes in this respect, that the opportunity was not taken to include the principle of equal remuneration for men and women workers for work of equal value in the Labour Code. The Committee recalls once again that the provisions in the Constitution and in the Labour Code are insufficient to ensure the full application of the principle of the Convention because they do not encompass the concept of "equal value", and may therefore hinder progress in eliminating gender-based pay discrimination. Moreover, while criteria such as quality and quantity of work may be used to determine the level of earnings, the use of only these criteria is likely to have the effect of impeding an objective evaluation of the work performed by men and women on the basis of a wider range of criteria which are free from gender bias. ***The Committee asks the Government to take the necessary measures without delay to ensure that full legislative expression be given to the principle of equal remuneration for men and women for work of equal value, and recalls that such provisions should not only cover situations where men and women are performing the same or similar work but also situations where they carry out work that is of an entirely different nature but is nevertheless of equal value. In the absence of any further information on this point, the Committee once again requests the Government to indicate the manner in which this provision is implemented in practice. The Committee also asks the Government to provide information on any legislative developments as well as on any awareness-raising campaigns or activities carried out with respect to the implementation of the principle of the Convention.***

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

Cameroon

C077 - Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)

Observation 2016

The Committee notes the observations of the General Union of Workers of Cameroon (UGTC) received on 3 October 2016, as well as the Government's report.

Application of the Convention in practice. In its previous comments, the Committee noted that Order No. 15 of 15 October 1979 on the organization and functioning of occupational medical services, which gives effect to some provisions of the Convention, has remained in force following the adoption of Act No. 92/007 of 14 August 1992 issuing the Labour Code. The Committee noted that, in addition to this Order and the Labour Code, Order No. 17 of 27 May 1969 on child labour continues to give effect to the provisions of the Convention.

The Committee notes the Government's indication in its report that it is seeking to strengthen the capacities of labour inspectors through training. However, according to the UGTC, the Government has not taken any measures to ensure the application in practice of the pertinent provisions of the Labour Code, Order No. 15 of 15 October 1979 or Order No. 17 of 27 May 1969.

Moreover, the Committee noted in its comments on the Minimum Age Convention, 1973 (No. 138), that the Government had adopted a National Plan of Action for the Elimination of the Worst Forms of Child Labour (PANETEC) 2014–2016 in March 2014. It noted that, under PANETEC, the reinforcement of the means of action of labour inspectors and the extension of their intervention are priorities. Substantial resources (logistics and transport, operating budget) will be allocated to the labour inspection services so that they can effectively expand their interventions to combat child labour. ***The Committee therefore requests the Government to take measures to ensure the application of the Convention in practice and to provide information on the results achieved, particularly under PANETEC. It also requests the Government to provide statistics on the number of employed young persons who have undergone the medical examinations provided for under the Convention.***

C078 - Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)

Observation 2016

The Committee notes the observations of the General Union of Workers of Cameroon (UGTC) received on 3 October 2016, as well as the Government's report.

Article 1 of the Convention. Scope of application. In its previous comments, the Committee noted that there were no provisions in the national legislation ensuring the application of the Convention to children and young persons working on their own account, as employees and apprentices are covered by the provisions of Order No. 17 of 27 May 1969 and the Labour Code. It also noted that the Government had reiterated that medical examinations for young persons were to be extended, inter alia, to young persons engaged on their own account in the informal economy and that some municipalities had done this for one category of workers. The Committee further noted the observations of the UGTC to the effect that, although provision is made for systematic inspections in the formal economy, no measures had been taken for young persons in the informal economy, despite the efforts made for young people in the context of combating HIV/AIDS. The Government indicated that it was very difficult to get young persons working in the informal economy to undergo a medical examination for fitness for employment, as it was unable to exercise any control over employers in that sector. The Committee nonetheless noted the Government's indication that some young persons in the informal economy, such as casual street vendors with sales spaces provided by the public services, benefit from medical examinations. In view of the large number of children who work in the informal economy, particularly on their own account, the Committee expressed the firm hope that the Government would report in the very near future the progress made in ensuring the application of the Convention.

The Committee notes the Government's indication in its report that the Labour Code is being revised and will include a new definition of "worker" so that workers in the formal and informal economies benefit from the same protection. However, the Committee notes that, according to the observations of the UGTC, no new measures have been taken to ensure the application of the Convention. ***Recalling that children who work on their own account are covered by Article 1(c) the Convention, the Committee hopes that the Government will take the necessary measures to make progress in the reform of the Labour Code and to ensure that the Convention is applied in law and practice to all young workers covered by the Convention, including those working in the informal economy. It requests the Government to provide information on the progress made in the reform and to provide a copy of the new Labour Code when it has been adopted.***

Cameroon

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

Application of the Convention in practice. The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, which refer to outstanding legislative matters; cases of interference by the authorities in the elections of the Fako Agricultural Workers' Union (FAWU) and in the construction and health sectors; acts of vandalism on the premises of the Divisional Syndicate of Agricultural Workers in Fako (DISAWOFA) which the police have not investigated and for which no penalties have been imposed; anti-union harassment of members of a financial workers' union (FESYLTEFCAM) in the banking sector; and repeated police violence against strikers calling for better working conditions in the construction industry, with the support of the Cameroonian Confederation of Workers (CCT).

Furthermore, the Committee notes the observations of the Cameroon Workers' Trade Union Confederation (CSTC), received on 30 August 2016, denouncing interference by the authorities in its internal affairs following the recognition by the Ministry of Labour of a faction claiming to have been elected as officers of the Confederation despite the fact that a court decision annulled the election in question.

The Committee notes the observations, received on 6 September 2016, of Education International (EI) and of its members from the Education Trade Unions Platform, which includes most of the teacher trade unions in the country, including the Federation of Education and Research Unions (FESER), the Cameroonian Federation of Education Unions (FECASE) and the Union of workers of private education establishments in Cameroon (SYNTESPRIC), which report that in the absence of provisions regulating the trade unions that fall beyond the scope of the Labour Code, the eight public sector teacher trade unions are still not legally recognized despite the procedures they have followed to obtain accreditation from the competent authorities, some procedures dating back to 1991. Consequently, trade union members and officials face hostility from the administration, and the functioning of trade unions which cannot hold union meetings in schools or obtain membership without a legal status is seriously hindered.

The Committee notes the observations from the General Union of Workers of Cameroon (UGTC) and the Cameroon United Workers Confederation (CTUC), received in September 2015, reporting the Government's lack of willingness to complete the revision of the Labour Code and adopt a single act on trade unions for the private and public sectors. The CTUC claims that the current Labour Code restricts freedom of association and violates the provisions of the Convention relating to trade unions' registration, their dissolution, and their right to affiliate with international organizations. The Committee notes that, in its replies to the CTUC's observations, received in January 2016, the Government refers to the ongoing revision process of the Labour Code and merely denies the other allegations.

The Committee notes with concern the allegations of acts of police violence against strikers and the particularly long period of time for registering education unions, and urges the Government to provide its comments and detailed information on these issues.

The Committee also notes the observations from the CTUC received on 14 November and 5 December 2016. ***The Committee requests the Government to provide its comments in this respect.***

Legislative issues

The Act on the Suppression of Terrorism. The Committee notes that, at its November 2016 meeting, the Committee on Freedom of Association made recommendations regarding the application of the Act on the Suppression of Terrorism (No. 2014/028 of 23 December 2014) and referred the case to the Committee to be examined with respect to its conformity with the provisions of the Convention (see Case No. 3134, 380th report). In this regard, the Committee wishes to draw the Government's attention to the following point: under section 2 of the Act, "the death penalty shall be imposed on anyone who … commits or threatens to commit any act that may cause death, endanger physical safety, result in bodily injury or property damage or harm natural resources, the environment or the cultural heritage with the intention of: 1.a) intimidating the public, causing a situation of terror or forcing a victim, the Government and/or a national or international organization to carry out or refrain from carrying out a given act, adopt or renounce a particular position or act according to certain principles; 2.b) disrupting the normal operation of public services or the delivery of essential public services, or creating a public crisis". The Committee notes the very general nature of the situations covered by this provision and expresses its ***deep concern*** at the fact that some of these situations could concern acts related to the legitimate exercise of trade union activities in accordance with the Convention. The Committee refers particularly to protests or strikes which would have direct repercussions on public services. The Committee also notes that, in light of the penalty incurred, such a provision could be particularly intimidating for trade union or employers' representatives who speak out or act within the framework of their mandates. ***The Committee therefore requests the Government to take the necessary measures to amend section 2 of the Act on the Suppression of Terrorism to ensure that it does not apply to the legitimate activities of workers' and employers' organizations as provided under the Convention. In the meantime, the Committee urges the Government to ensure, including by giving the appropriate instructions to the competent authorities, that the implementation of this Act does not have harmful consequences on officials and members acting in accordance with their mandates, and performing trade union or employer activities pursuant to the right under Article 3 of the Convention conferred on workers' and employers' organizations to organize their administration and activities, and to formulate their programmes. In addition, the Committee expects that the Government will ensure that the law is enforced in such a way that it is not perceived as a threat or intimidation towards trade union members or the whole trade union movement. The Committee requests the Government to indicate any measures taken in relation to these comments.***

Legislative reform. The Committee notes with ***deep regret*** that the information provided in the Government's last two reports, received in August 2015 and August 2016, show that the process of revision of the Labour Code, the adoption of an act on trade unions and the repeal of regulations not in conformity with the Convention have not been finalized. ***The Committee is bound once again to urge the Government to finalize the legislative revision process without further delay to give full effect to the provisions of the Convention on the points recalled below.***

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

[The Government is asked to reply in full to the present comments in 2018.]

Cameroon

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes the observations on the application of the Convention in practice by the International Trade Union Confederation (ITUC), Educational International (EI) and its affiliates from the Education Trade Unions Platform, the Cameroon Workers' Trade Union Confederation (CSTC), and the Cameroon United Workers' Confederation (CTUC) received on 1 September, 6 September, 30 August and 14 November 2016, respectively.

Articles 1 and 2 of the Convention. Adequate protection against acts of anti-union discrimination and interference. The Committee notes the observations of the ITUC denouncing, inter alia, acts of anti-union discrimination against trade union leaders and trade unionists in the banking sector and interference by the employer and the authorities in the elections of a trade union in the agricultural sector. It also notes the observations of the CTUC denouncing interference by an enterprise in the activities of a trade union in the wood industry and dismissal by the enterprise, in question of more than 150 workers based solely on their trade union affiliation. ***The Committee notes with concern the seriousness of some of the incidents alleged and urges the Government to take all necessary measures to ensure that the competent authorities, particularly the labour inspectorate, conduct the necessary enquiries into these alleged acts of anti-union discrimination and interference, and to take the necessary remedial measures without delay and apply suitable penalties if the trade union rights recognized in the Convention are found to have been impaired in some administrations or enterprises. The Committee urges the Government to provide its comments and detailed information in this regard.***

In its previous comments, the Committee took note of observations received in September 2013 from the General Union of Workers of Cameroon (UGTC) concerning acts of anti-union discrimination against the executives of an organization (SNEGCBEFCAM) affiliated to the National Social Welfare Fund. The Committee observes that this case was the subject of a complaint to the Committee on Freedom of Association, whose latest recommendations date from March 2015 (Case No. 2808, 374th report). ***Noting that in a communication received on 17 October 2016, the UGTC reports that for the SNEGCBEFCAM the situation has worsened, the Committee urges the Government to implement the recommendations of the Committee on Freedom of Association and to provide information without delay on the situation of the SNEGCBEFCAM and its members.***

Article 4. Right to collective bargaining in practice. The Committee noted in previous comments the allegations made by the ITUC and the UGTC concerning the ongoing absence of collective bargaining in the public sector and the difficulties met in implementing the collective agreements concluded in the media and security sectors. The Committee notes that the Government indicates that it is for the signatories to the media sector agreement to implement it. As regards the collective agreement of the security services, the Government indicates that the public authorities are applying measures to reorder the sector, which has slowed down the process to revise the collective agreement. Furthermore, the Government indicates that collective bargaining in the public sector proceeds unhindered. The Committee notes the observations of the EI and its members belonging to the Education Trade Unions Platform, which brings together most of the teachers' unions in Cameroon, denouncing a lack of will on the Government's part to implement the agreements signed with the trade unions for public and private education, and the exclusion of trade unions from the consultative bodies of the sector. The Committee also notes the CSTC's observations alleging unilateral appointment by the Ministry of Labour of workers' representatives to the bargaining committees for national collective agreements, without taking into account the representativeness of the organizations in the sectors concerned. ***In view of the CSTC and EI observations, the Committee requests the Government to indicate the measures to encourage and promote collective bargaining taken by the authorities pursuant to Article 4 of the Convention, and to specify the sectors concerned. The Committee also requests the Government to provide statistical information on the number of collective agreements signed and in force, in both the public and private sectors, and on the number of sectors and workers covered by them.***

Lastly, the Committee notes the Government's indication that studies are under way to examine the matter of ratification of the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154). ***The Committee requests the Government to indicate the outcome of the studies.***

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

The Committee notes the observations made by the General Union of Workers of Cameroon (UGTC), in a communication received on 25 September 2015, and the observations made by the United Workers Confederation of Cameroon (CTUC), in a communication received on 29 September 2015.

Article 1(b) of the Convention. Work of equal value. Legislation. For a number of years, the Committee has been drawing the Government's attention to the fact that section 61(2) of the Labour Code makes payment of an equal wage to all workers, regardless of their origin, sex, age, status or religious belief, contingent on there being "equal conditions of work and skill", and therefore does not give full effect to the principle of equal remuneration for men and women for work of equal value. The Committee recalls that, in determining the respective values of two jobs under comparison, factors such as working conditions and vocational qualifications are relevant but it is not necessary for each factor to be equal in value as it is the overall value of the job that counts, namely when all the combined factors are taken into account. The Committee notes that the legislation has not been amended and that the Government considers that the provisions of section 61(2) of the Labour Code completely rule out the possibility of any pay-related discrimination. ***Re emphasizing the importance of the concept of "work of equal value", the Committee trusts that, as part of the announced reform of the Labour Code, the Government will take the necessary steps to amend the provisions of section 61(2) of the Labour Code so that they reflect the principle of equal remuneration for men and women for work of equal value laid down in the Convention.***

Articles 2(2)(c) and 4. Cooperation with social partners. Collective agreements. The Committee notes that the UGTC and the CTUC emphasize that social dialogue bodies, particularly the National Labour Advisory Committee, have a purely advisory role and that the proposals made by workers' organizations are not taken into account by the Government. The Committee notes the Government's general indication that a number of collective agreements which were negotiated and signed recently reflect the principle established by the Convention. Moreover, the Committee has been highlighting for several years the discriminatory nature of section 70 of the Cameroon Railway Company (CAMRAIL) collective agreement (travel allowances granted only to the wife of a male employee and not to the husband of a female employee). The Committee recalls that, when there are discriminatory provisions in collective agreements, governments should take the necessary steps, in cooperation with the social partners, to ensure that provisions of collective agreements observe the principle of equal remuneration for men and women for work of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 694). ***Noting that the Government's report does not contain any information on this matter, the Committee trusts once again that the Government will shortly be in a position to report that the discriminatory clauses in the CAMRAIL collective agreement, and in any other agreement containing such clauses, have been removed, and requests the Government to provide information on the measures taken to that end. Furthermore, it again requests the Government to give specific examples of action taken to encourage the social partners to negotiate collective agreements in the light of the principle of equal remuneration for men and women for work of equal value.***

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

Cameroon

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

The Committee notes the observations from the General Union of Workers of Cameroon (UGTC) concerning pending issues examined by the Committee, which were received on 25 September and 2 December 2015, and the Government's reply, which was received on 2 December 2015.

Articles 1 and 2 of the Convention. Legislation and national equality policy. For many years, the Committee has been making comments on the need to bring the national legislation which omits anti-discrimination provisions, and particularly the Labour Code, into conformity with the Convention. The Committee notes that the United Workers' Confederation of Cameroon (CTUC) points out, in its observations received on 11 November 2014 that the Government has been reaffirming for over 20 years that the revision of the Labour Code is under way and that it will take account of the Committee's comments. The CTUC expresses the firm hope that the Government will duly proceed with the revision of the Labour Code. The Committee also notes that the Government reaffirms once again that the bill revising the Labour Code is being examined and has been approved by the National Labour Advisory Committee (CNCT). While noting that the Government refers to a national gender and disability policy paper, the Committee observes that the Government does not provide any information on the implementation of the national gender policy referred to in its previous report or on any other measure reflecting the existence of a national policy aimed at promoting equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof, in accordance with *Article 2* of the Convention. ***The Committee urges the Government to take the necessary steps, in cooperation with workers' and employers' organizations, to include in the national legislation, particularly in the Labour Code, provisions defining and explicitly prohibiting direct and indirect discrimination based on at least all the grounds listed in the Convention, in employment and occupation, including at the time of recruitment. It also requests the Government to take steps to formulate and implement a national equality policy which includes plans or programmes of action and specific measures to promote equality of opportunity and treatment irrespective of race, colour, religion, political opinion, national extraction or social origin. The Government is requested to provide detailed information on any measures taken towards this end and to provide copies of the relevant texts adopted in this respect, including the national gender and disability policy paper.***

Discrimination based on sex. For a number of years, the Committee has been urging the Government to take specific steps to remove from the national legislation all provisions that have the effect of nullifying or impairing equality of opportunity or treatment for women in employment and occupation, particularly section 74(2) of Ordinance No. 81-02 of 29 June 1981 governing civil status and establishing various provisions concerning the status of natural persons, which gives a husband the right to object to his wife working by invoking the interests of the marriage and the children. The Committee notes with ***regret*** that the Government merely indicates that, according to section 74(1) of the Ordinance of 1981, "a married woman may have an occupation that is separate from that of her husband". ***The Committee again urges the Government to take the necessary steps without delay to ensure that provisions that constitute an obstacle to the employment of women, including those relating to civil status, are removed from the legislation, and to provide information on the measures taken in this respect and on specific steps taken by the Government to promote gender equality in practice in employment and occupation, and on their results.***

Discriminatory job vacancies. The Committee notes that the UGTC reiterates its observations concerning the existence of discriminatory job vacancies. The Committee notes that the Government merely indicates that the labour inspectorate has received no queries on this matter. ***The Committee requests the Government to remain vigilant with respect to the publication of job vacancies, particularly those directly under its control, and to take steps to raise the awareness of workers, employers and their organizations and of persons responsible for recruitment in administrations and enterprises with regard to the principle of non-discrimination.***

Article 5. Special measures of protection for women. Prohibited work. With regard to the types of work prohibited for women under Order No. 16/MLTS of 27 May 1969, the Government indicates that the list of such types of work is being revised. The Committee recalls that, in order to repeal provisions that are discriminatory to women, it may be necessary to examine what other measures, such as improving health protection for both men and women, providing adequate and safe means of transport and establishing social services, may be necessary to ensure that women can work on an equal footing to men. ***The Committee urges the Government once again to take the necessary steps to revise the list of prohibited types of work for women, determined by Order No. 16/MLTS of 27 May 1969, in the light of the principle of equality and maternity protection, and to take measures to remove obstacles to women's employment in practice and to improve occupational safety and health for both men and women. The Government is requested to provide information on progress made in this respect.***

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

Central African Republic

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the general observations from the International Organisations of Employers (IOE) received on 1 September 2016.

The Committee notes that the Government indicates that a study is planned with a view to harmonizing the national legislation with international instruments and that its terms of reference are being prepared. It observes, however, that the Government's report contains no reply to its previous comments.

Articles 2, 3, 5 and 6 of the Convention. Legislative matters. The Committee recalls that since 2009 its comments have concerned the need to amend certain legislative provisions to bring them into line with the Convention:

·– section 17 of the Labour Code, which limits the right of foreigners to join trade unions by imposing conditions of residence (two years) and reciprocity;

·– section 24 of the Labour Code, which limits the right of foreigners to be elected to trade union office by imposing a condition of reciprocity;

·– section 25 of the Labour Code, which renders non-eligible for trade union office persons sentenced to imprisonment, persons with a criminal record or persons deprived of their right of eligibility as a result of the application of national law, even where the nature of the relevant offence is not prejudicial to the integrity required for trade union office;

·– section 26 of the Labour Code, under which the union affiliation of minors under 16 years of age may be opposed by parents or guardians despite the minimum age for admission to employment being 14 years under section 259 of the Labour Code;

·– section 49(3) of the Labour Code, under which no central organization may be established without the prior existence of "occupational federations" and "regional unions" (section 49(1) and (2)).

The Committee noted the report submitted in June 2014, in which the Government indicated that the requested amendments to sections 17, 25, 26 and 49(3) of the Labour Code were the subject of an implementing decree which was in the process of being adopted.

The Committee requests the Government to supply information on all progress made in the adoption of the abovementioned implementing decree and hopes that the Government will take all necessary steps in the near future to align these legislative provisions with the Convention.

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

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes the Government's indication, in response to the Committee's previous comments, that it is taking measures in the implementing regulations of the Labour Code, in particular with regard to the issue of wage bargaining. ***The Committee requests the Government to provide information on any progress made in this regard.*** Moreover, the Committee observes that the Government's report does not contain a reply to its previous comments.

Articles 2, 4 and 6 of the Convention. Legislative matters. The Committee recalls that for several years its comments have concerned the following points:

·-section 30(2) of the Labour Code (insufficient protection against all the acts of interference envisaged in *Article 2* of the Convention and absence of penalties). ***The Committee requests the Government to provide information on any progress achieved in respect of the previously announced adoption of regulations to extend the protection afforded against acts of interference and to impose penalties.***

·-section 40 of the Labour Code (collective agreements must be discussed by the representative employers' and workers' organizations belonging to the occupation concerned). ***The Committee requests the Government to indicate the legislative provision which grants federations and confederations the right to engage in collective bargaining.***

·-sections 197 and 198 of the Labour Code (possibility for professional groupings of workers to engage in collective bargaining with the employer on an equal footing with trade unions). Recalling that *Article 4* of the Convention promotes collective bargaining between employers and workers' organizations, the Committee requested the Government to indicate the measures taken to ensure that professional groupings of workers may negotiate collective agreements with employers only where no trade union exists in the bargaining units concerned. ***The Committee hopes that the Government will be in a position to report specific progress in this respect in the near future.***

·-section 211 of the Labour Code (right to collective bargaining in the public service limited to "public services, enterprises and establishments not governed by specific conditions of service"). ***Recalling that the Convention applies to all public servants not engaged in the administration of the State, the Committee requests the Government to provide clarification on the scope of application of section 211, particularly specifying the extent to which the right to engage in collective bargaining is recognized for all public employees, with the possible exception of public servants engaged in the administration of the State, the armed forces and the police.***

Furthermore, the Committee previously asked the Government to reply to the observations of the International Trade Union Confederation (ITUC) alleging that there is no collective bargaining in the wage-fixing process in the public sector. The Government indicated that, in the context of fixing minimum wages in the public sector, the opinion of the tripartite Standing National Labour Council (CNPT) is taken into account. The Government also declared that, since it is the biggest employer in the country and it is part of the CNPT, engaging in collective bargaining on the wages of public servants would be a duplication of effort. While noting the explanations provided by the Government, the Committee recalled that, under the terms of the Convention, public servants other than those engaged in the administration of the State should have the benefit of machinery for negotiating the terms and conditions of their employment, including the question of wages other than the minimum wage. ***In view of the lack of information from the Government on this matter, the Committee once again requests the Government to indicate the measures taken to promote such bargaining machinery in the public sector.***

Lastly, the Committee requested the Government to consider amending sections 367–370 of the Labour Code, which appear to establish a procedure whereby all collective disputes are subject to conciliation and, failing resolution, to arbitration. ***In view of the lack of information from the Government on this matter, the Committee repeats its request, recalling that recourse to compulsory arbitration in all cases where the parties do not reach agreement through collective bargaining is only acceptable in relation to public servants engaged in the administration of the State (Article 6 of the Convention), essential services in the strict sense of the term or in the event of an acute national crisis. The Committee also once again requests the Government to provide its comments on the matter of compulsory recourse to long conciliation or arbitration procedures in the event of a dispute, as raised by the ITUC in its 2013 observations.***

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

Chad

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature. It also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, relating to: (i) the legal procedures governing the right to strike; (ii) cases of serious violations of trade union and fundamental rights; and (iii) the determination of essential services. ***The Committee requests the Government to provide its comments in this regard.***

Articles 2 and 3 of the Convention. Labour Code. In its previous comments, the Committee requested the Government to take measures to amend section 294(3) of the Labour Code, under the terms of which minors under 16 years of age may join a union, unless their father, mother or guardian objects, with a view to recognizing the trade union rights of minors who have reached the statutory minimum age to enter the labour market in accordance with the Labour Code (14 years), either as workers or apprentices, without the intervention of their parents or guardians. The Committee also drew the Government's attention to the need to take the necessary measures to amend section 307 of the Labour Code, to ensure that monitoring by the public authorities of trade union finances does not go beyond the obligation of organizations to submit periodic reports. The Committee noted the Government's indication that this provision has never been applied and that it was removed in the draft revision of the Labour Code. The Committee notes the Government's statement that the concerns of the Committee have been taken into account in the revision of the Act issuing the Labour Code, even though the latter has not yet been promulgated. ***The Committee trusts that the Labour Code will be promulgated in the near future and that it will give full effect to the provisions of the Convention on the points recalled above. It requests the Government to provide a copy of the text as adopted.***

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

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes with ***regret*** that the Government's report has not been received.

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, reporting cases of violations of trade union rights, particularly against the Confederation of Trade Unions of Chad (UST) and the National Union of Higher Education Teachers and Researchers (SYNECS). ***The Committee requests the Government to provide its comments on this matter, and on the ITUC's previous observations (unilateral suspension of a national agreement on minimum wages and obstacles to collective bargaining in the petroleum sector).***

The Committee trusts that the Government will be more cooperative in the future and provide the information requested.

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

Observation 2016

The Committee notes that the Government's report contains no reply to its previous comments. It hopes that the next report will contain full information on the matters raised in its previous comments.

Technical assistance. In its conclusions of June 2013, the Conference Committee invited the Government to take all appropriate measures to ensure the effective operation of the procedures required by this governance Convention. The Government states in its report, received in November 2014, that it always advocates social dialogue with the social partners. The Committee notes that the Government submitted reports on ratified Conventions to the social partners for any possible observations, as agreed at a workshop held in Dakar in July 2014 on constitutional obligations. The Committee was also informed about a capacity-building workshop on international labour standards and social dialogue, which was held in Ndjamena in September 2014. With ILO assistance, and in the framework of the follow-up requested by the Conference Committee pursuant to a tripartite discussion held in June 2013, the participants put forward various proposals to strengthen the consultation procedures required by the Convention, including the convening of a tripartite workshop with the departments and units to address the information required in the Committee of Expert's comments, and a tripartite workshop for the validation of reports before they are submitted to the ILO. ***The Committee invites the Government to submit further information on the progress made as a result of the assistance received from the ILO on matters related to tripartite consultations and social dialogue.***

Articles 2 and 5 of the Convention. Consultation mechanisms and effective tripartite consultations. The Government states that in 2013, the Higher Committee for Labour and Social Security convened with a view to incorporating the technical comments in the draft Labour Code. The Committee also notes that this Higher Committee was inactive in 2014. ***The Committee invites the Government to provide detailed information on the consultations held on all the items covered by Article 5(1) of the Convention.***

Article 4(2). Training. The Government confirms that training for participants in consultative procedures is necessary, but that more often than not there is a problem of funding. The Committee notes the possibility of the Government intervening directly or through third-party development partners to make training possible. ***The Committee invites the Government to describe any arrangements made for the financing of any necessary training of participants on the consultative procedures.***

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

Chad

C151 - Labour Relations (Public Service) Convention, 1978 (No. 151)

Observation 2016

The Committee notes with ***concern*** that the Government's report does not contain the information requested, nor does it contain any information on the measures taken to implement the recommendations that it has been making for many years on the application of several key provisions of the Convention. ***The Committee is therefore bound to reiterate these recommendations and urges the Government to adopt all necessary measures relating to the following points.***

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

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

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

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

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

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

The Committee expects that the Government will take all the necessary measures without delay in consultation with the representative organizations concerned, and will act on the Committee's comments and accordingly give full effect to the provisions of the Convention. [The Government is asked to reply in full to the present comments in 2017.]

Comoros

C019 - Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)

Observation 2016

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

The Committee notes that ever since Comoros ratified the Convention in 1978, it has had to draw the Government's attention to the need to amend the content of section 29 of Decree No. 57-245 of 24 February 1957 on the compensation and prevention of occupational accidents and diseases. Pursuant to this provision, foreign victims of occupational accidents who have moved abroad receive as compensation only a lump sum equal to three times the amount of the periodical payment granted to them, whereas nationals continue to receive their periodical payments. Foreign dependants no longer residing in Comoros only receive a lump sum not exceeding the value of the periodical payment established by order. Finally, the dependants of a foreign worker employed in Comoros are not entitled to any periodical payments if they did not reside in the country at the time of the worker's accident.

In its latest report, as in those sent since 1997, the Government states that in practice no distinction is made between national and foreign workers in respect of their treatment in terms of occupational accident compensation. It states that foreign workers continue to receive their cash benefits abroad provided that they give their new address. The Government's report does not however indicate the progress made in respect of the draft text which, according to the information sent by the Government in its previous reports, should repeal the provisions of Decree No. 57 245 which are inconsistent with the Convention.

Consequently, the Committee trusts that the Government will take adequate measures, without delay, to bring the national legislation fully into line with the Convention, which provides that foreign nationals of States which have ratified the Convention, and their dependants, shall receive the same treatment as that guaranteed to nationals in respect of compensation for occupational accidents.

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

C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

Observation 2016

The Committee notes the observations of the Workers Confederation of Comoros (CTC), received on 19 August 2016. With reference to the application of Convention No. 26, the CTC indicates that the discussions held in the Labour and Employment Advisory Council concerning the minimum wage failed to result in a decision. With regard to the application of Convention No. 95, the CTC notes with regret the failure to resolve the situation of wage arrears, including in the public service, and emphasizes the grave impact of this situation. The Committee notes that the Government's reports have not been received. ***The Committee requests the Government to provide its comments regarding the observations of the CTC and, in particular, to provide information on any decree or order adopted with respect to the minimum wage after obtaining the opinion of the Labour and Employment Advisory Council, in accordance with section 106 of the Labour Code of 2012. The Committee proposes to examine in detail the application of Conventions Nos 26, 95 and 99 at its next session and hopes that it will have before it the Government's detailed reports on that subject.***

C078 - Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)

Observation 2016

The Committee notes the observations of the Workers' Confederation of Comoros (CTC) of 16 August 2016 and requests the Government to provide its comments in this respect. It notes however that the Government's report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes the comments made by the Workers' Confederation of Comoros (CTC) dated 31 August 2011, as well as of the Government's report.

Articles 1(1) and 7 of the Convention. Scope of application and medical certificates of fitness for employment. In its previous comments, the Committee noted the Government's indication that, in the context of the revision of the national labour legislation, all the necessary measures would be examined in order to bring the legislation into conformity with the provisions of the Convention.

The Committee takes note of the CTC's observation that the Government has still not honoured its commitments to bring its labour legislation into line with the Convention. The CTC also points out that non-industrial occupations are outside the scope of the labour inspectorate's supervision. In its report, the Government indicates that the bill revising the Labour Code will be submitted to the National Assembly for adoption. ***Noting that the Government has been referring to bringing its national legislation into line with the Convention for many years, the Committee expresses the firm hope that the bill revising the Labour Code will be adopted in the very near future and that its provisions will give effect to Articles 1(1) and 7 of the Convention. The Committee asks the Government to send information on any progress made in this respect.***

Article 6. Physical and vocational rehabilitation of children and young persons determined unfit for work. In its comments made under the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77), the Committee noted the Government's intention to take measures, within the framework of the revision of the Labour Code, to ensure that a text or statutory texts complying with the provisions of *Article 6* of the Convention were adopted. ***Noting that the bill to revise the Labour Code has still not been adopted, the Committee expresses the firm hope that, as part of the revision of the national legislation, the necessary measures will be taken with a view to adopting a statutory text that complies with the provisions of Article 6 of the Convention. The Committee requests the Government to provide information on any progress achieved in this respect.***

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

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

Comoros

C081 - Labour Inspection Convention, 1947 (No. 81)

Observation 2016

The Committee notes the observations of the Workers Confederation of Comoros (CTC), received on 16 August 2016, which raise similar points to those made previously.

The CTC indicates that labour inspectors are not sufficiently qualified and that they suffer from political interference in the discharge of their duties. It also indicates that the training for inspectors envisaged by the Decent Work Country Programme (DWCP) has not taken place. While welcoming the adoption of Order No. 15.021/METFPEF/CAB on the organization and operation of the labour and social legislation inspectorate in accordance with section 168 of the Labour Code, the CTC considers that, in practice, inspectors do not have the necessary financial and material resources to discharge their duties. ***The Committee requests the Government to provide its comments in this respect.***

The Committee also notes with ***deep concern*** that the Government's report has not been received.

The Committee requests the Government to provide a report describing in detail the arrangements for the organization and operation of the labour inspectorate in accordance with Order No. 15.021/METFPEF/CAB, and to provide information on the following: (i) the recruitment procedure for labour inspectors; (ii) criteria for determining the numbers of the inspection staff; (iii) a description of the content of initial and further training; (iv) the terms and conditions of service of inspectors; and (v) the material means at the disposal of inspectors for the discharge of their duties.

C095 - Protection of Wages Convention, 1949 (No. 95)

Observation 2016

The Committee notes the observations of the Workers Confederation of Comoros (CTC), received on 19 August 2016. With reference to the application of Convention No. 26, the CTC indicates that the discussions held in the Labour and Employment Advisory Council concerning the minimum wage failed to result in a decision. With regard to the application of Convention No. 95, the CTC notes with regret the failure to resolve the situation of wage arrears, including in the public service, and emphasizes the grave impact of this situation. The Committee notes that the Government's reports have not been received. ***The Committee requests the Government to provide its comments regarding the observations of the CTC and, in particular, to provide information on any decree or order adopted with respect to the minimum wage after obtaining the opinion of the Labour and Employment Advisory Council, in accordance with section 106 of the Labour Code of 2012. The Committee proposes to examine in detail the application of Conventions Nos 26, 95 and 99 at its next session and hopes that it will have before it the Government's detailed reports on that subject.***

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes the observations of the Workers' Confederation of Comoros (CTC) received on 19 August 2016 and requests the Government to provide its comments thereon.

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

Article 2 of the Convention. Anti-union discrimination. The Committee notes with ***regret*** that the Government's report does not respond to the 2011 comments of the Workers' Confederation of Comoros (CTC) which refer to numerous dismissals of trade union members and leaders in the para-public and port sectors. ***The Committee urges the Government to conduct an inquiry in this regard and to report on the subsequent results.***

Article 4. Promotion of collective bargaining. For several years, the Committee has been requesting the Government to take measures to promote collective bargaining in the public and private sectors. The Committee had noted the comments made by the Employers' Organization of Comoros (OPACO), according to which collective agreements in the pharmaceutical and bakeries sectors, which had been under negotiation for several years, had still not been concluded and that negotiations in the press sector were under way. The Committee had noted with regret that, according to OPACO, the Government had not taken any measures to promote collective bargaining in either the public or the private sectors. The Committee had once again regretted the absence of progress in the collective bargaining under way and expressed the firm hope that the negotiations would be completed in the near future. The Committee lastly had noted that, according to the CTC, there had still not been progress in collective bargaining and that it was not structured and had no framework at any level, and that joint bodies in the public service had still not been put in place.

The Committee notes the request for technical assistance made by the Government in its report. ***The Committee expresses the firm hope that technical assistance of the Office may be carried out in the very near future and urges the Government to take all necessary measures to promote collective bargaining in the public and private sectors. The Committee requests the Government to provide information in this regard.***

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

C099 - Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)

Observation 2016

The Committee notes the observations of the Workers Confederation of Comoros (CTC), received on 19 August 2016. With reference to the application of Convention No. 26, the CTC indicates that the discussions held in the Labour and Employment Advisory Council concerning the minimum wage failed to result in a decision. With regard to the application of Convention No. 95, the CTC notes with regret the failure to resolve the situation of wage arrears, including in the public service, and emphasizes the grave impact of this situation. The Committee notes that the Government's reports have not been received. ***The Committee requests the Government to provide its comments regarding the observations of the CTC and, in particular, to provide information on any decree or order adopted with respect to the minimum wage after obtaining the opinion of the Labour and Employment Advisory Council, in accordance with section 106 of the Labour Code of 2012. The Committee proposes to examine in detail the application of Conventions Nos 26, 95 and 99 at its next session and hopes that it will have before it the Government's detailed reports on that subject.***

Comoros

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

The Committee notes the observations made by the Confederation of Workers of Comoros (CTC), received on 16 August 2016 and forwarded to the Government on 14 September 2016, stating that there is no wage scale in the private and parastatal sectors and that two different wage scales are implemented in a discriminatory manner in the public sector. ***The Committee requests the Government to provide its comments on the issues raised by the CTC and is therefore bound to repeat its previous comments.***

The Committee notes however with ***regret*** that the Government's report has not been received. It is therefore bound to repeat its previous comments.

Article 2 of the Convention. National policy. Equality of opportunity and treatment of men and women. The Committee notes that the Government recognizes in its report that significant measures are needed to improve the situation of women with regard to employment, education, literacy and vocational training, and that access to traditional bank credit is very difficult for women. The Committee also notes the concluding observations of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), which express concern at the persistence of attitudes based on patriarchal values and deep-rooted stereotyping with regard to the roles and responsibilities of women and men in the family and society (CEDAW/C/COM/CO/1-4, 8 November 2012, paragraphs 21–22). The Committee notes that the Government's report does not contain any information on the National Policy on Gender Equity and Equality (PNEEG), adopted in 2008, or its plan of action. ***The Committee requests the Government to take the necessary steps to remove the obstacles to women's participation in employment and the various occupations and to promote their access to credit and resources, including measures to combat stereotyping and prejudice towards women, and to provide information on any measures taken in this regard. The Government is also requested to provide information on the measures taken to implement the PNEEG and the subregional gender policy and strategy of the Indian Ocean Commission adopted by the governments of the countries of the region in April 2009, or any other policy adopted more recently on this matter, and the results achieved in employment and occupation.***

Equality of opportunity and treatment irrespective of race, colour, religion, political opinion, national extraction and social origin. The Committee recalls that, under *Article 2* of the Convention, member States that ratify the Convention undertake to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation. It also recalls that the implementation of a national equality policy presupposes the adoption of a range of specific measures, which often consist of a combination of legislative and administrative measures, collective agreements, public policies, affirmative action measures, dispute resolution and enforcement mechanisms, specialized bodies, practical programmes and awareness raising (see General Survey on the fundamental Conventions, 2012, paragraphs 848–849). ***In the absence of information on this point, the Committee once again requests the Government to indicate the measures taken or contemplated to declare and pursue a national policy designed to promote equality for all in respect of employment and occupation, without any distinction made on the basis of race, colour, religion, political opinion, national extraction or social origin.***

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

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

C122 - Employment Policy Convention, 1964 (No. 122)

Observation 2016

The Committee notes the observations from the Workers' Confederation of Comoros (CTC), received on 16 August 2016. ***The Committee requests the Government to provide its comments in this respect.***

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

Article 1 of the Convention. Implementation of an active employment policy. Youth employment. In reply to the Committee's 2009 observation, the Government indicates that the framework document on the national employment policy was approved by the Council of Ministers and that a Bill issuing the national employment policy has been prepared and submitted to the National Assembly. The Committee also notes the comments made by the Workers' Confederation of Comoros (CTC) in September 2011. The CTC confirms that, despite the approval of the framework document on the national employment policy, no legislation has yet been approved by the National Assembly on this subject. The CTC acknowledges that it was consulted on the national Poverty Reduction and Growth Strategy Paper (PRGSP) and the ILO Decent Work Country Programme (DWCP). The Government indicates that the support project for peace-building in Comoros through employment promotion for youth and women (APROJEC) has launched several activities to promote youth employment in the islands. The CTC calls for a mid-term re-evaluation of the results of the APROJEC project. The Government also refers to the lack of the necessary financial resources to continue surveys of young unemployed graduates and requests financial support from the ILO with a view to the general application of these surveys in other islands. ***The Committee requests the Government to indicate in its next report whether the Act issuing the national employment policy has been adopted and to indicate whether specific difficulties have been encountered in achieving the objectives set out in the PRGSP. It also invites the Government to provide information on the resources used to achieve the employment priorities established in the context of the DWCP, 2009–12, and on the impact of measures and programmes, such as the APROJEC project, which are designed to facilitate the access of youth to decent work.***

Collection and use of employment data. ***The Committee invites the Government to supplement its next report with detailed information on the progress achieved in the collection of labour market data and on the manner in which such data are taken into account in the formulation and implementation of the employment policy (Article 2).***

Participation of the social partners. ***The Committee invites the Government to provide full information on the consultations envisaged in Article 3 of the Convention, which requires the participation of all of the persons affected, and particularly employers' and workers' representatives, in the formulation and implementation of employment policies.***

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

Congo

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2016

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

Article 2(2)(a) of the Convention. 1. *Work exacted under compulsory military service laws.* For many years the Committee has been drawing the Government's attention to the fact that section 1 of Act No. 16 of 27 August 1981 establishing compulsory military service is not in conformity with the Convention. Under this provision, national service is instituted for the purpose of enabling every citizen to participate in the defence and construction of the nation and has two components: military service and civic service. The Committee has repeatedly emphasized that work exacted from recruits as part of compulsory national service, including work related to national development, is not purely military in nature and is therefore contrary to *Article 2(2)(a)* of the Convention.

The Committee notes that the Government once again indicates that it is committed to repealing the abovementioned Act and this will be seen in practice in the revision of the Labour Code, which is in progress. ***The Committee again expresses the strong hope that when the Labour Code is revised, the necessary steps will be taken to amend or repeal the Act establishing compulsory military service so as to bring the legislation into conformity with the Convention. The Government is requested to supply information on any progress made in this respect.***

2. *Youth brigades and workshops.* In its previous comments the Committee noted the Government's indication that Act No. 31-80 of 16 December 1980 on guidance for youth had fallen into disuse since 1991. Under this Act, the party and mass organizations were supposed to create, over time, all the conditions for establishing youth brigades and organizing youth workshops (type of tasks performed, number of persons involved, duration and conditions of their participation, etc.). The Committee once again notes the Government's indication that it is committed to repealing the abovementioned Act and this will be seen in practice in the revision of the Labour Code, which is in progress. ***The Committee expresses the strong hope that when the Labour Code is revised, the necessary steps will be taken to formally repeal Act No. 31-80 of 16 December 1980 on guidance for youth.***

Article 2(2)(d). Requisitioning of persons to perform community work in instances other than emergencies. For many years the Committee has been drawing the Government's attention to the fact that Act No. 24-60 of 11 May 1960 is not in conformity with the Convention in that it allows the requisitioning of persons to perform community work in instances other than the emergencies provided for under *Article 2(2)(d)* of the Convention, and provides that persons requisitioned who refuse to work are liable to imprisonment ranging from one month to one year.

The Committee again notes the Government's indication that this Act has fallen into disuse and may be considered as repealed, in view of the fact that the Labour Code (section 4) and the Constitution (article 26), which prohibit forced labour, annul all the provisions of national law which are contrary to them. The Government explains that, in order to avoid any legal ambiguity, a text will be adopted enabling a clear distinction to be made between work of public interest and the forced labour prohibited by the Labour Code and the Constitution. The Government also indicates that the practice of mobilizing sections of the population for community work, on the basis of the provisions of section 35 of the statutes of the Congolese Labour Party (PCT), no longer exists. Tasks such as weeding and clean-up work are carried out by associations, state employees and local communities on a voluntary basis, therefore without any compulsion involved. Moreover, the voluntary nature of work for the community will be established in the revision of the Labour Code in such a way as to clearly bring the national legislation into conformity with the provisions of the Convention. ***The Committee notes this information and hopes that appropriate measures will be taken to clarify the situation in both law and practice, especially by the adoption of a text enabling a distinction to be made between work in the public interest and forced labour.***

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

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

Congo

C081 - Labour Inspection Convention, 1947 (No. 81)

Observation 2016

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

Absence of practical information to enable the Committee to assess the operation of the labour inspectorate in relation to the provisions of the Convention and relevant national laws. The Committee notes the updated information regarding the number and geographical distribution by category of labour inspection staff. It notes, by comparison with the data given in the report received from the Government in 2008, a substantial reduction in labour inspection staff, in particular labour inspectors (from 75 to 55) and principal controllers (from 96 to 72). The Committee recalls that, according to *Article 10,* in order to secure the effective discharge of the duties of the labour inspectorate, the number of labour inspectors must be determined with due regard to the importance of the duties which inspectors have to perform, in particular the number, nature, size and situation of the workplaces liable to inspection; the number and classes of workers employed in such workplaces; the number and complexity of the legal provisions to be enforced; the material means placed at the disposal of the inspectors; and the practical conditions under which visits of inspection must be carried out.

While the laws and regulations concerning labour inspection and its mandate and prerogatives are available, it must be noted that there are no numerical data on other areas defined in *Article 10* and, as the Government admits, there are no specific measures for giving effect to the provisions of *Article 11* concerning the material conditions of work of labour inspectors, who do not have access to the transport facilities required for them to carry out their duties. The Committee notes, on the other hand, that according to the Government, inspectors' travel and related costs are reimbursed by the competent authority on presentation of invoices, which was not always the case, according to the report received in 2008.

The Committee once again requests the Government to provide in its next report all the available information needed to assess the application of the Convention in law and in practice. This information should cover, among other matters: (i) the up-to-date geographical distribution of public officials responsible for labour inspection as defined in Article 3(1) of the Convention; (ii) the geographical distribution of workplaces liable to inspection or, at the least, those for which the Government considers that the conditions of work require specific protection from the labour inspection services; (iii) the frequency, content and number of participants at the training courses provided for labour inspectors during their career; (iv) the level of remuneration and conditions for career advancement in relation to other public officials with comparable responsibilities; (v) the proportion of the national budget allocated to the public labour inspection services; (vi) a description of the cases in which inspectors visit enterprises, the procedure followed and the transport facilities that they use for this purpose, the activities that they carry out and their outcome; and (vii) the proportion of supervisory activities carried out by inspectors in relation to their conciliation duties.

The Committee also requests the Government to communicate a copy of any inspection activity reports originating from regional directorates, including the reports cited in the Government's reports sent to the ILO in 2008 and 2011; a copy of the draft or final text of the regulations relating to the status and conditions of service of labour inspectors; copies of the proposed amendments to the Labour Code, and of the memorandum which was reportedly sent to the ILO and is intended to improve the functioning of the labour inspection service.

In order to establish a labour inspection system that will respond to the social and economic goals which are the object of the Convention, the Committee urges the Government to make every effort to adopt the measures needed to implement the measures described in the Committee's general observations made in 2007 (concerning the need for effective cooperation between the labour inspection service and the judicial system), in 2009 (concerning the need for statistics on industrial and commercial workplaces subject to labour inspection and the number of workers covered, and 2010 (concerning publication of the content of an annual report on the functioning of the labour inspection system). The Committee recalls once again the possibility of obtaining technical assistance from the ILO and of requesting, within the context of international financial cooperation, financial assistance in order to give the necessary impetus to the establishment and operation of the labour inspection system, and would be grateful for any information on progress made and difficulties encountered.

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

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016 which are of a general nature.

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

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

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2015, which are of a general nature.

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

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

Congo

C095 - Protection of Wages Convention, 1949 (No. 95)

Observation 2016

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

Article 12 of the Convention. Payment of wages at regular intervals. ***Further to its previous observations concerning accumulated wage debt, the Committee asks the Government to provide together with its next report an updated account on the situation regarding the regular payment of wages, including detailed particulars on any persistent difficulties in either the public or the private sector and the measures taken in response to such situations.***

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

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

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

Article 1 of the Convention. Protection against discrimination. Legislation. For many years the Committee has been emphasizing the gaps in the Labour Code and the General Public Service Regulations as regards protection of workers against discrimination, since these texts cover only some of the grounds of discrimination listed in *Article 1(1)(a)* of the Convention and only certain aspects of employment, such as wages and dismissal. The Committee notes the Government's indications that the preliminary draft of a new Act amending and completing certain provisions of the Labour Code, which is currently being prepared, prohibits discrimination on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, at all stages of employment and occupation. It further notes that the preliminary draft has been sent to the social partners in order to receive their comments before the meeting of the National Labour Advisory Committee. ***Recalling that, where legal provisions are adopted to give effect to the principle of the Convention, these should cover at least all the grounds of discrimination listed in Article 1(1)(a) of the Convention and be concerned with access to vocational training, access to employment and particular occupations, and also conditions of employment (Article 1(3)), the Committee requests the Government to take the necessary steps to ensure the adoption of the preliminary draft of the new Act amending and completing the Labour Code and the amendment of the General Public Service Regulations in order to ensure full protection against discrimination for workers in the public and private sectors, to supply information on the status of the legislative process to this end and to send a copy of the legislative texts once they have been adopted. The Committee also requests the Government to consider the possibility of requesting technical comments from the ILO on the draft legislation before it is adopted.***

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

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

Congo

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

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

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted that, according to ILO statistics for 2000, more than 960,000 children between 10 and 14 years of age (510,000 boys and 450,000 girls) were involved in economic activity. The Committee therefore asked the Government to take steps to improve this situation, especially by the adoption of a national policy designed to ensure the effective abolition of child labour.

The Committee notes with regret that the Government's report still does not contain any information on the adoption of a national policy designed to ensure the effective abolition of child labour. It notes the Government's indication that there are no inspection reports which provide any information on the presumed or actual employment of children in enterprises in Congo during the reporting period. However, the Committee notes that UNICEF statistics for 2005–09 reveal that 25 per cent of Congolese children are involved in child labour. Moreover, the Committee notes that, according to the information on the website of the National Centre for Statistics and Economic Studies (CNSEE) (www.cnsee.org), a national household survey (ECOM2) was conducted from February to May 2011. ***Expressing its concern at the large number of children working below the minimum age in the country, and given the lack of a national policy designed to ensure the effective abolition of child labour, the Committee once again urges the Government to take the necessary steps to ensure the adoption and implementation of such a policy as soon as possible. It requests the Government to provide detailed information in its next report on the measures taken in this respect. The Committee also requests the Government to provide a copy of ECOM2.***

Article 3(2). Determination of hazardous types of work. In its previous comments the Committee noted that section 4 of Order No. 2224 of 24 October 1953, which establishes employment exemptions for young workers, determines the nature of the work and the categories of enterprises prohibited for young persons and sets the age limit of the prohibition, prohibits the employment of young persons under 18 years in certain types of hazardous work and includes a list of such types of work. The Committee drew the Government's attention to the provisions of Paragraph 10(2) of the Minimum Age Recommendation, 1973 (No. 146), which invites the Government to re-examine periodically and revise as necessary the list of the types of employment or work to which *Article 3* of the Convention applies, particularly in the light of advancing scientific and technological knowledge.

The Committee notes the Government's indication that it is aware of the need to re-examine periodically and revise as necessary the list of the types of employment or work to which *Article 3* of the Convention applies. ***Observing that Order No. 2224 was adopted more than 50 years ago, the Committee requests the Government to indicate whether it plans to take measures in the near future to revise the list of types of hazardous work established by Order No. 2224. It requests the Government to provide detailed information in this respect.***

Article 3(3). Admission to hazardous work from the age of 16 years. In its previous comments the Committee noted that, under section 5 of Order No. 2224, the employment of young workers under the age of 16 years in certain hazardous types of work is prohibited. In addition, under the terms of section 7 of the Order, labour and social legislation inspectors may require young workers to undergo a medical examination in order to determine whether the work in which they are employed exceeds their capacities. When it has been proven that the young worker is physically unfit for the work in which he is employed, he must be transferred to a post corresponding to his physical capacities or made redundant without any blame being attached to him. The Committee noted that the condition laid down by *Article 3(3)* of the Convention to the effect that the health, safety and morals of young persons aged between 16 and 18 years authorized to carry out hazardous work shall be protected, is met by the abovementioned provisions. However, it reminded the Government that *Article 3(3)* of the Convention also requires that young persons aged between 16 and 18 years shall receive specific instruction or vocational training in the relevant branch of activity. The Committee therefore requested the Government to provide information on the measures taken or envisaged to comply with this requirement.

The Committee notes the Government's indication that young persons between 16 and 18 years of age are never permitted to perform hazardous work in enterprises. However, the Committee observes that section 5 of Order No. 2224 prohibits certain hazardous types of work for children under 16 years of age, which implies that such work is permitted for young persons over 16 years of age. ***The Committee therefore requests the Government to clarify whether Order No. 2224 is still in force. If so, it urges the Government to take the necessary steps to ensure that young persons between 16 and 18 years of age, who are permitted to perform hazardous work, receive specific instruction or vocational training in the relevant branch of activity.***

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

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

Congo

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

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

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Sale and trafficking of children. In its previous comments, the Committee noted the Government's statement that there is child trafficking between Benin and the Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work. According to the Government, the children are forced to work all day in harsh conditions by their host families, and are subjected to all kinds of hardships. The Committee noted that sections 345, 354 and 356 of the Penal Code lay down penalties for anyone found guilty of the forcible or fraudulent abduction of persons including young persons under 18 years of age. It requested the Government to indicate to what extent sections 345, 354 and 356 of the Penal Code have been implemented in practice. ***The Committee requests the Government once again to supply information on the application of sections 345, 354 and 356 of the Penal Code in practice, including, in particular, statistics on the number and nature of offences reported, investigations, prosecutions, convictions and penalties imposed.***

Article 7(2). Effective and time-bound measures. Clause (b). Removal of children from the worst forms of child labour and ensuring their rehabilitation and social integration. Sale and trafficking of children. In its previous observations, the Committee noted the Government's statement acknowledging that the trafficking of children between Benin and Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work is contrary to human rights. It also noted that the Government has taken certain measures to curb child trafficking, including: (a) the repatriation by the Consulate of Benin of children who have either been picked up by the national police or removed from families; and (b) the requirement at borders (airport) for minors (young person under 18 years of age) to have administrative authorization to leave the territory of Benin. The Committee asked the Government to provide information on the impact of the measures taken with regard to the rehabilitation and social integration of children following their withdrawal from labour. It noted that the Government's report does not contain any information on this subject. ***The Committee requests the Government once again to supply information on the time-bound measures taken to remove young persons under 18 years of age from this worst form of child labour and to ensure their rehabilitation and social integration. It also requests the Government to supply information on the impact of these measures.***

Application of the Convention in practice. The Committee noted that, according to the concluding observations of the Committee on the Rights of the Child on the initial report of Congo of October 2006 (CRC/C/COG/CO/1, paragraph 85), a study of the root causes and repercussions of trafficking is due to be conducted in the country. ***The Committee requests the Government to supply information on the results of this study and to supply a copy of it once it has been prepared.***

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

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

Côte d'Ivoire

C013 - White Lead (Painting) Convention, 1921 (No. 13)

Observation 2016

Article 3(1) of the Convention. Prohibition of the employment of young men under 18 years of age and all women in industrial painting work involving the use of white lead and sulphate of lead. Technical assistance. The Committee refers to its previous comments, in which it has been asking the Government for years to take the necessary steps to ensure that young men under 18 years of age and all women are not employed in industrial painting work involving the use of white lead, sulphate of lead or all other products containing these pigments. The Committee notes that the Government refers once again in its report to section 4D-431 of Decree No. 67-321 of 21 July 1967. The Government also refers to section 12 of Order No. 009 MEMEASS/CAB of 19 January 2012 revising Order No. 2250 of 14 March 2005 determining the list of hazardous types of work prohibited for young persons under 18 years of age. The Committee recalls once again that the above section of the 1967 Decree is only concerned with painting work in buildings, whereas *Article 3(1)* of the Convention covers all types of industrial painting work. The Committee further notes that section 12 of Order No. 009 of 19 January 2012 prohibits the employment of children in listed workshops, which could include those using certain procedures involving the use of white lead or sulphate of lead, and particularly workshops where acid fumes or dust are emitted or where varnish is manufactured or applied. However, the Committee notes that this list is not exhaustive and does not cover all uses of white lead, sulphate of lead or all other products containing these pigments. Moreover, the Committee notes that the Government does not provide any information on the prohibition of the employment of women in the industrial painting work concerned. It further notes that the Government has requested technical assistance from the Office in order to survey the extent of the use of white lead and benzene in enterprises. ***The Committee urges the Government to take prompt steps, in law and in practice, to prohibit the employment of young men under 18 years of age and all women in industrial painting work involving the use of white lead, sulphate of lead or other products containing these pigments, and requests it to provide information on this matter. It also hopes that the Office will provide the technical assistance requested by the Government.***

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Articles 1 and 2 of the Convention. Protection against discrimination and promotion of equality in the public service. The Committee recalls that for many years it has been requesting the Government to take the necessary measures to bring into conformity with the Convention section 14(2) of Act No. 92-570 of 11 September 1992 issuing the General Public Service Regulations, which provides that "specific arrangements may be made, on account of physical fitness requirements or constraints inherent in certain functions ... to reserve access [to the public service] for candidates of one or other sex". The Committee also recalls that section 14(1) of the Act only prohibits any distinction being made between men and women during recruitment. In its previous comments, the Committee noted the Government's undertaking to repeal section 14(2) during the review of the Regulations and the holding of a workshop specifically to review the Act issuing the General Public Service Regulations with a view to identifying "the shortcomings, discrepancies and injustices contained in the current Regulations" and "to propose corrective measures". The Committee notes the Government's indication that the reform of the General Public Service Regulations of 1992 is still in progress. ***The Committee once again requests the Government to take the necessary measures to repeal section 14(2) of Act No. 92-570 of 11 September 1992 issuing the General Public Service Regulations and trusts that it will take the opportunity provided by the ongoing review of the Regulations to consider the possibility of including provisions defining and prohibiting any direct or indirect discrimination made at least on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, at all stages of employment (access to employment and to particular occupations, as well as working conditions and terms and conditions of employment). The Committee asks the Government to ensure that equality of opportunity and treatment without any distinction on these grounds is one of the specific objectives of the public service reform. The Government is requested to provide information on the progress made in the work of revising the General Public Service Regulations and to supply a copy of the new Regulations once they are adopted.***

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

Democratic Republic of the Congo

Democratic Republic of the Congo

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2016

Democratic Republic of the Congo

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

Follow up to the discussion of the Committee on the Application of Standards (International Labour Conference, 103rd Session, May–June 2014).

The Committee notes the discussion held in the Conference Committee on the Application of Standards, as well as the observations made by the Confederation of Trade Unions of Congo (CSC) on the application of the Convention, received on 28 August 2014.

Articles 1(1), 2(1) and 25 of the Convention. Forced labour and sexual slavery in the context of the armed conflict. In its previous comments, the Committee noted the information provided by the CSC, the International Trade Union Confederation (ITUC) and the reports of several United Nations agencies confirming the persistence of serious violations of human rights committed by State security forces and various armed groups in the context of the armed conflict which has been raging in the Democratic Republic of the Congo. This information referred to cases of abduction of women and children with a view to their use as sexual slaves; the imposition of forced labour related to the illegal extraction of natural resources in many resource-rich areas, principally in Orientale Province, the Kivus and North Katanga; abductions of persons to force them to participate in activities such as domestic work, wood cutting, gold mining and agricultural production for the benefit of armed groups. While being aware of the complexity of the situation and the efforts made by the Government to re-establish peace and security, the Committee recalls that failure to comply with the rule of law, the climate of impunity and the difficulties experienced by victims in gaining access to justice contribute to the continued perpetration of these serious violations of the Convention.

The Committee notes that, during the discussion of the application of the Convention by the Committee on the Application of Standards, the Government representative indicated that, with the support of the United Nations Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), the territories which had been under the control of armed groups have been taken back by the regular army, and that the Government had initiated legal proceedings and organized trials which had resulted in severe sentences being imposed on the perpetrators of these crimes. The Government representative also reaffirmed its commitment to prosecute those who had violated human rights and to bring an end to impunity, emphasizing that the acts referred to by the Committee were largely in the past. With support from international cooperation, the Government has deployed specialized police brigades, known as local brigades, to restore the authority of the State and thereby ensure the protection of the civilian population. While noting the difficulty posed by the situation and the efforts made by the Government, many speakers emphasize the need to intensify efforts to combat impunity and to ensure adequate protection for victims. The need to reinforce the labour inspection services, particularly in mining areas, was also emphasized.

The Committee notes that, in its communication of August 2014, while recognizing the efforts made by the Government to combat the massive violations of human rights, the CSC confirms that forced labour persists and remains a serious concern, as it is intensifying. The CSC refers, by way of illustration, to the events of July 2014 in Ituri (Orientale Province), where an armed group abducted women and children to subject them to sexual exploitation and forced labour in the extraction and transport of minerals. It adds that the measures to punish those responsible for these acts are neither firm nor effective, and impunity encourages the propagation of such practices.

The Committee also notes various reports by, among others, the Secretary General of the United Nations, the United Nations Security Council and the United Nations High Commissioner for Human Rights in the context of the activities of his Office in the Democratic Republic of the Congo (A/HRC/27/42, S/2014/697, S/2014/698 and S/2014/222). The Committee notes that these reports recognize the efforts made by the Government to prosecute the perpetrators of human rights violations, including public officials. They however remain concerned at the human rights situation in the Democratic Republic of the Congo and by recurrent reports of violence, including sexual violence, perpetrated by armed groups and the national armed forces, particularly in the eastern provinces of the Democratic Republic of the Congo. The Security Council recalled in this respect that there must be no impunity for persons responsible for human rights violations. The High Commissioner emphasized that the justice system faces various challenges in investigating and prosecuting perpetrators of human rights violations, including the lack of resources and staffing and the lack of independence of military tribunals, where they exist, which is also problematic.

The Committee notes all of this information and urges the Government to step up its efforts to bring an end to the violence perpetrated against civilians with a view to subjecting them to forced labour and sexual exploitation. Considering that impunity contributes to the propagation of these serious violations, the Committee trusts that the Government will continue to take determined measures to combat impunity and will provide civil and military tribunals with appropriate resources with a view to ensuring that the perpetrators of these serious violations of the Convention are brought to justice and punished. The Committee also requests the Government to take measures to protect victims and for their reintegration.

Article 25. Criminal penalties. The Committee recalls that, with the exception of section 174(c) and (e) regarding forced prostitution and sexual slavery, the Penal Code does not establish appropriate criminal penalties to penalize the imposition of forced labour. Moreover, the penalties established by the Labour Code in this respect are not of the dissuasive nature required by *Article 25* of the Convention (section 323 of the Labour Code establishes a principal penalty of imprisonment of a maximum of six months and a fine, or one of these two penalties). ***The Committee expresses the firm hope that the Government will take the necessary measures for the adoption in the very near future of adequate legislative provisions so that, in accordance with Article 25 of the Convention, effective and dissuasive criminal penalties can be applied in practice on persons exacting forced labour.***

Repeal of legislation allowing the exaction of work for national development purposes, as a means of collecting unpaid taxes, and by persons in preventive detention. For several years, the Committee has been requesting the Government to formally repeal or amend the following legislative texts and regulations, which are contrary to the Convention:

·– Act No. 76-11 of 21 May 1976 respecting national development and its implementing order, Departmental Order No. 00748/BCE/AGRI/76 of 11 June 1976 on the performance of civic tasks in the context of the National Food Production Programme: these legal texts, which aim to increase productivity in all sectors of national life, require, subject to criminal penalties, all able-bodied adult persons who are not already considered to be making their contribution by reason of their employment to carry out agricultural and other development work, as decided by the Government;

·– Legislative Ordinance No. 71/087 of 14 September 1971 on the minimum personal contribution, of which sections 18 to 21 provide for imprisonment involving compulsory labour, upon decision of the chief of the local community or the area commissioner, of taxpayers who have defaulted on their minimum personal contributions;

·– Ordinance No. 15/APAJ of 20 January 1938 respecting the prison system in indigenous districts, which allows work to be exacted from persons in preventive detention (this Ordinance is not on the list of legal texts repealed by Ordinance No. 344 of 15 September 1965 respecting prison labour).

The Committee notes that the Government representative indicated on this subject in the Conference Committee on the Application of Standards that a Bill to repeal earlier legislation authorizing recourse to forced labour for purposes of national development was before the Parliament and that a copy of it would be provided once it had been adopted. The Committee notes the indication by the CSC in this regard that the Bill is not a priority for Parliament. ***The Committee trusts that the Government will be able to indicate in its next report the formal repeal of the legal texts noted above, to which it has been referring for many years and which the Government indicates are obsolete.***

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

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

Democratic Republic of the Congo

C062 - Safety Provisions (Building) Convention, 1937 (No. 62)

Observation 2016

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

Article 4 of the Convention. The Committee notes the information that the mission of the restructured labour inspectorate remained the same as previously, namely to monitor relevant regulations, to provide advice and to seek to resolve any conflicts occurring; and that there were no specific competencies attributed to the labour inspectorate in terms of inspections in the area of construction. ***With reference to its previous comment, the Committee asks the Government to provide more information on the manner in which technical standards applied in the building industry are monitored and enforced.***

Article 6. Application in practice. The Committee notes the 2010 report of the National Institute for Social Security and of the Inspector General for 2008–09 including detailed, albeit not comprehensive, statistical information, which reflects a noticeable development in the Government's efforts to improve its monitoring of the working conditions in the country. The Committee notes that the information provided does not fully enable the Committee to evaluate the trends in relation to occupational accidents and diseases in the area of construction. ***The Committee hopes the Government will be in a position to provide further and more complete statistical information on the number and classification of the accidents and diseases occurring, particularly to persons working in the sector covered by the Convention, and as detailed information as possible on the number of persons engaged in the building industry and covered by the statistics.***

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

C081 - Labour Inspection Convention, 1947 (No. 81)

Observation 2016

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

The Committee notes the Government's report received on 19 June 2013 and the observations of 30 August 2013 by the Confederation of Trade Unions of Congo (CSC). ***The Committee asks the Government to send any comments it deems fit in response to the CSC's observations.***

Articles 1, 4, 6 and 15(a) of the Convention. Reform of the labour inspectorate. Status and conditions of service of labour inspectors. Integrity of labour inspectors. Following up on its previous comments, the Committee welcomes the implementation of Decree No. 12/002 of 19 January 2012 on the establishment and organization of the "General Labour Inspectorate" (IGT) and the Government's indication that the labour inspectorate has become a public service with administrative and financial autonomy. The Government also indicates that a committee to revitalize the inspectorate has been set up by Ministerial Order No. 007/CAB/MIN/ETPS/MBL/pkg 2013 of 24 January 2013, and that the plan for the inspectorate's professional staff is under examination by the public service as part of the ongoing reform of the public administration.

The Committee notes that, according to section 28 of the above Decree, inspection staff are governed by special administrative regulations. The Committee further notes the CSC's allegations concerning the corruption of a labour inspector. ***The Committee requests the Government to continue to provide detailed information on the implementation of the reform of the general labour inspectorate and to provide a copy of the new organizational chart and of the plan for the inspectorate's professional staff. It requests the Government to provide a copy of the special administrative regulations governing labour inspectors and specific information on their conditions of service (for example, remuneration, bonuses granted, etc.), both at central level and in the provinces, as compared to other categories of public servants performing similar duties.***

With reference to its previous comments, the Committee asks the Government to provide specific information on the practical effect given to Act No. 81-003 of 17 July 1981 concerning inspectors engaged in parallel employment (for example, disciplinary proceedings brought, penalties applied, etc.).

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

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

Democratic Republic of the Congo

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 31 August 2014 and 31 August 2016. ***The Committee requests the Government to provide its comments in this regard.*** The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2014 and 1 September 2016, which are of a general nature.

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

The Committee notes the comments dated 30 August 2013 from the International Trade Union Confederation (ITUC) concerning the application of the Convention, particularly those reporting acts of interference during the 2013 trade union elections in the education sector. ***The Committee requests the Government to send its observations on this matter.***

Articles 2 and 5 of the Convention. Right to organize in the public service. In its previous comments, the Committee asked the Government to take the necessary steps to ensure that the reform of the public administration and the revision of the conditions of service of career members of the public service enable the guarantees enshrined in the Convention to be afforded to all state employees. The Committee notes the Government's indication that the reform is still in progress but that the 2013 version of the draft revised conditions of service of career members of the public service has just been approved by the general secretaries of the public administration and will shortly be submitted to Parliament for adoption. ***The Committee firmly trusts that the Government will provide information in its next report on the adoption of new conditions of service of career members of the public service which secure the rights laid down in the Convention to all state employees.***

Furthermore, the Committee previously asked the Government to specify the instrument that safeguards the trade union rights of magistrates. The Committee notes that the Government reiterates that the freedom of association of magistrates is recognized under the provisional Order of 1996 and that magistrates' trade unions exist. ***The Committee hopes that, as part of the reform of the public administration, provisions will be adopted that explicitly secure to magistrates the rights laid down in the Convention.***

Article 3. Right of foreign workers to hold trade union office. The Committee previously asked the Government to amend section 241 of the Labour Code, which requires a 20-year residence period as a condition of eligibility for a person to be entrusted with the administration and management of a trade union organization. The Committee notes the indication that the matter was discussed at the 30th meeting of the National Labour Council and that on this occasion the tripartite constituents did not approve the Committee's recommendations. ***Recalling that national legislation should allow foreign workers to take up trade union office, at least after a reasonable period of residence in the host country (see 2012 General Survey on the fundamental Conventions, paragraph 103), the Committee requests the Government to amend section 214 of the Labour Code taking account of the principle recalled above.***

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

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

C094 - Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

Observation 2016

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

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Committee notes the adoption of Act No. 10/010 of 27 April 2010 respecting public contracts. However, it notes that this new Act, which is intended to adapt the system of the conclusion of contracts to the requirements of transparency, rationality and effectiveness which currently characterize this vital sector, does not contain any provision on the labour clauses which have to be inserted in public contracts, in accordance with this Article of the Convention. In this respect, the Committee considers it necessary to refer to its 2008 General Survey, which recalls that the essential purpose of the Convention is to ensure that, through the insertion of appropriate labour clauses in public contracts, the workers employed by a contractor and paid indirectly out of public funds enjoy wages and conditions of labour which are at least as satisfactory as the wages and conditions of labour normally established for the type of work concerned, whether they are established by collective agreement or otherwise. ***While noting that section 49 of Act No. 10/010 provides for the establishment of specifications determining the conditions for the execution of the contracts, which will include general administrative clauses as well as specific administrative clauses, the Committee asks the Government to take all the appropriate measures for the inclusion of provisions giving full effect to Article 2 of the Convention in the general administrative clauses contained in the specifications. The Committee hopes that, when adopting the decrees to apply the Act to public contracts, the Government will not fail to take the opportunity to bring its legislation finally into conformity with the Convention and it requests the Government to provide a copy of any new text once it has been adopted.***

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

Democratic Republic of the Congo

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 31 August 2014 and 31 August 2016. ***The Committee requests the Government to provide its comments in this regard.***

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

Article 2 of the Convention. Protection against acts of interference. The Committee pointed out previously that although section 235 of the Labour Code prohibits all acts of interference by organizations of employers and workers in each other's affairs, section 236 provides that acts of interference must be defined more precisely in an order. The Committee requested the Government to indicate any new developments regarding the adoption of such an order. ***Noting the information that the order defining acts of interference has not as yet been adopted, the Committee urges the Government to take the necessary measures to this end promptly and hopes that in its next report, the Government will indicate that concrete progress has been made in this regard, in particular that the acts specified in Article 2 of the Convention will be included in the definition.***

Article 6. Collective bargaining in the public sector. In its previous comments, the Committee took note of various agreements concluded by the administration and the unions representing public employees not engaged in the administration of the State. It concluded that, in practice, wage bargaining and agreements exist in the public sector. However, having noted that section 1 of the Labour Code expressly excludes from the Code permanent officials of the state public services governed by the general conditions of service and permanent employees and officials of state public services governed by specific conditions of service, the Committee requested the Government to take steps to ensure that the national legislation clearly guarantees the right to collective bargaining of all public servants not engaged in the administration of the State, as provided in *Articles 4* and *6* of the Convention. The Committee notes that the Government merely repeats that there are mechanisms for collective bargaining between public sector unions and the administration, such as the joint committee. ***The Committee is bound to repeat its request to the Government to establish expressly in the national legislation, for example as part of the public administration reform under way, the right to collective bargaining of all public servants not engaged in the administration of the State. Meanwhile, it requests the Government to provide information on all negotiations held in the joint committee.***

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

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

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

The Committee notes with ***regret*** that the Government's report has not been received. Noting the adoption of Act No. 15/013 of 1 August 2015 on the rules for implementing women's rights and gender parity, it hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous comments.

Article 1 of the Convention. Equal remuneration for work of equal value. Legislation. For several years the Committee has been asking the Government to bring the Labour Code into line with the Convention. It notes that, as in previous reports, the Government merely states that it takes due note of the Committee's comments and will incorporate them into the legislation when the Labour Code is next revised, and that the principle is applied in practice. The Committee recalls that section 86 of the Labour Code which provides that for equal conditions of work, qualifications and output, wages are equal for all workers irrespective of origin, sex or age, is narrower than the principle set out in the Convention. Not only does section 86 fail to reflect the concept of "work of equal value" but it is not applicable to all the components of remuneration as defined in *Article 1(a)* of the Convention, since it appears to exclude all emoluments that are additional to the "wage" whether they are components of remuneration as defined in section 7(h) of the Labour Code (commissions, cost of living allowances, bonuses, etc.) or not (health care, accommodation and accommodation allowances, transport allowances, statutory family allowances, travel costs and "emoluments granted solely to assist workers in performing their duties"). ***The Committee therefore urges the Government to take the necessary steps to amend the Labour Code so that it expressly enshrines the principle of equal remuneration for men and women for work of equal value and applies to all the components of remuneration as defined in Article 1(a) of the Convention. The Committee asks the Government to provide information on measures taken to this end, and to specify when the next revision of the Labour Code is scheduled to take place.***

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

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

Democratic Republic of the Congo

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

The Committee notes with ***regret*** that the Government's report has not been received. Noting the adoption of Act No. 15/013 of 1 August 2015 on the rules for implementing women's rights and gender parity, and of Act No. 16/008 of 15 July 2016 amending the Family Code, it hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the specific issues raised in relation to the Family Code, and other matters raised in its previous comments.

With regard to the human rights situation, the seriousness of which it emphasized in its previous comments, the Committee observes that, in its report of 13 January 2013 (A/HRC/19/48), the United Nations High Commissioner for Human Rights noted with grave concern the staggering number of cases of sexual and gender-based violence and called for an intensification of efforts to ensure continued progress in combating these acts of violence. The High Commissioner once again highlighted that the obstacles to combating sexual violence go beyond the weakness of state institutions and are related to cultural and socio-economic issues. In addition to the need to strengthen state responses in cases of sexual violence, there is a need to address the root causes of this violence, and particularly the precarious and disadvantaged socio-economic position of women in Congolese society. According to the report of 12 July 2013 of the United Nations High Commissioner for Human Rights (A/HRC/24/33), the human rights situation had significantly deteriorated since the January 2012 report especially in the eastern part of the country where there was an important increase in the number of human rights violations and serious violations of international humanitarian law that could amount to war crimes, committed by national security and defence forces, as well as by national armed groups. The Committee observes that the High Commissioner also confirmed that sexual violence continues to be committed at "appalling levels" throughout the country and highlighted the alarming increase in mass rape committed by armed groups and members of the Congolese army. The Committee is bound to reiterate that the objective of the Convention, especially with regard to equality of opportunity and treatment between men and women in employment and occupation, cannot be achieved in a general context of serious violations of human rights and inequality in society. ***Taking into account the grave concerns which continue to be expressed regarding the human rights situation and its serious effects on women, the Committee once again urges the Government to take the necessary measures to address the inferior position of women in society, which is reflected in the sexual violence committed against them and in the discriminatory legislation, which the Committee considers to have a serious impact on the application of the principles of the Convention, and to create the necessary conditions to give effect to the provisions of the Convention.***

Articles 1 and 2 of the Convention. Prohibition of discrimination in employment and occupation. Legislation. The Committee recalls that neither the Labour Code nor Act No. 81/003 of 17 July 1981, issuing the conditions of service of career members of the state public service contain provisions prohibiting and defining direct or indirect discrimination in employment and occupation. The Committee notes that the Government confines itself to indicating that provisions to this end will be included in the national legislation when the Labour Code is revised and Act No. 81/003 amended. ***The Committee once again requests the Government to take the necessary measures in the near future to ensure that all discrimination, both direct and indirect, based as a minimum on the grounds set forth in the Convention and covering all aspects of employment and occupation, are defined and explicitly prohibited by the labour legislation applicable to the public and private sectors, and to provide copies of the texts that are adopted.***

Discrimination based on sex. Legislation. The Committee recalls that in its previous comments it emphasized that sections 448 and 497 of Act No. 87/010 of 1 August 1987 issuing the Family Code, and section 8(8) of Act No. 81/003 of 17 July 1981, under the terms of which a married woman has to obtain authorization from her husband to work, discriminated against women in employment and occupation. The Government indicates that it has just forwarded a revised draft of the Family Code to Parliament for adoption, and that the new conditions of service of employees in the public administration have still not been enacted. ***While noting this information, the Committee trusts that the Government will make every effort to ensure that new conditions of service for employees in the public administration are enacted in the near future, and that their provisions are in conformity with the Convention. The Committee requests the Government to provide a copy of this text as soon as it is enacted.***

Discrimination based on race or ethnic origin. Indigenous peoples. For several years, the Committee, based in particular on the concluding observations of the United Nations Committee on the Elimination of Racial Discrimination (CERD), has emphasized the marginalization and discrimination of indigenous "pygmy" peoples in relation to the enjoyment of their economic, social and cultural rights, particularly with regard to access to education, health and the labour market and it urges the Government to take measures to guarantee equality of opportunity and treatment for indigenous peoples in employment and occupation. The Committee notes that the Government confines itself to indicating that indigenous peoples benefit from all the rights guaranteed by the Constitution and that a Bill to ensure their protection is being examined by Parliament. The Committee recalls that a true policy of equality must also include measures to correct de facto inequalities of which certain categories of the population are victims and take into account their specific needs. ***The Committee requests the Government to take practical measures to allow indigenous peoples access, on an equal footing with other members of the population, to all levels of education, vocational training and employment, and to resources which enable them to carry out their traditional and subsistence activities, particularly to land. In this regard, the Committee requests the Government to accord particular attention to indigenous women, who are faced with additional discrimination in the labour market and within their community based on gender. The Committee also requests the Government to take measures to combat prejudices and stereotypes of which indigenous peoples are victims and to raise the awareness of other categories of the population of their culture and way of life so as to promote equality of treatment and mutual tolerance. It asks the Government to supply information on the progress made in the legislative process and the contents of the Bill to protect indigenous peoples, as well as data, disaggregated by sex, on their socio-economic situation.***

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

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

Democratic Republic of the Congo

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

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

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments the Committee noted that the Committee on the Rights of the Child (CRC) expressed concern at the prevalence of child labour in the country (CRC/C/15/Add.153, paragraph 66). It also noted that, according to the Government's initial report submitted to the CRC (CRC/C/3/Add.57, paragraph 196), because of the economic situation a number of parents tolerate or even send their children to do work which they are forbidden to perform by law. The Government indicated that the Ministry of Employment, Labour and Social Insurance was endeavouring to put the National Committee to Combat the Worst Forms of Child Labour into operation and that, once up and running, the committee would devise a national strategy for the abolition of child labour and its worst forms. In the context of this strategy, national action programmes would be formulated, in particular to identify child labour and its worst forms and, with the assistance of the labour inspectorate, to supervise and penalize enterprises that have recourse to child labour.

The Committee notes the information from the Government to the effect that the National Committee to Combat the Worst Forms of Child Labour, in operation since 2006, has drawn up a National Action Plan (NAP) to eliminate the worst forms of child labour by 2020, with technical and financial support from ILO–IPEC. The NAP sets out the strategies and priority actions to be taken for children who are vulnerable to the worst forms of child labour and for poor communities. According to information communicated by ILO–IPEC, the NAP has not as yet been officially adopted. The Committee observes that, according to the results of the Multiple Indicator Cluster Survey of 2010 (MICS-2010) published by UNICEF, in the 5–14 age group, virtually one child in every two is engaged in child labour, particularly in rural areas (46 per cent in rural areas as compared to 34 per cent in urban areas). While noting the measures the Government plans to take to combat child labour, the Committee is bound to express concern at the number of children exposed to child labour whose age is lower than the age for admission to employment or work. ***The Committee strongly encourages the Government to strengthen its efforts to secure the elimination of child labour. It expresses the firm hope that the NAP will be adopted and implemented without delay, and requests the Government to provide a copy of it. It also requests the Government to provide information on the application of the Convention in practice, including statistics, disaggregated by sex and age group, on the employment of children and young persons, together with extracts of labour inspection reports.***

Article 2(1). Scope of application and labour inspection. The Committee noted previously that Act No. 015/2002 of 16 October 2002 issuing the Labour Code applies only where there is a labour relationship. It also noted that the CRC expressed concern at the prevalence of child labour in the informal economy, which frequently falls outside the protection afforded by national legislation (CRC/C/15/Add.153, paragraph 66). The Committee reminded the Government that the Convention applies to all branches of economic activity and that it covers all types of employment or work, whether or not it is performed on the basis of a subordinate labour relationship and whether or not it is remunerated. The Government indicated in this regard that it would redouble its efforts to secure more effective labour inspection.

The Committee notes the information from the Government that the concern expressed by the Committee regarding child labour in the informal economy will be taken into account when the NAP strategy is implemented. Referring the Government to its General Survey of 2012 on the fundamental Conventions concerning rights at work (paragraph 345), the Committee points out that the expansion of the relevant monitoring mechanisms to the informal economy can be an important manner in which to ensure that the Convention is applied in practice, particularly in countries where expanding the scope of the implementing legislation to address children working in this sector does not seem a practicable solution. ***Recalling that the Convention applies to all forms of work or employment, the Committee requests the Government to take measures, in the context of the NAP, to adapt and strengthen the labour inspection services so as to ensure oversight of child labour in the informal economy, and to ensure that children have the protection established in the Convention. It also requests the Government to provide information in its next report on the organization, functioning and work of the labour inspectorate as they concern child labour.***

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

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

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

Observation 2016

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

Effective tripartite consultations. The Government indicates that the trade union and employers' elections held between October 2008 and July 2009 enabled 12 occupational organizations of workers to be identified as being the most representative, with terms of office lasting until the next elections, scheduled for December 2013. The most representative occupational organizations of employers are determined on the basis of the number of enterprises affiliated. The Government also indicates that the Ministry of Employment, Labour and Social Welfare convenes sittings of the National Council on Labour (CNT) by an order that it issues to the social partners represented in the CNT, requesting them to submit the names of the titular and alternate representatives of their respective organizations *(Article 3 of the Convention)*. The Committee notes that the Government's report contains no further information on the operation of the consultation procedures required by the Convention. ***The Committee refers the Government to its previous observation, in which it points to a serious failure of the obligation to submit the instruments adopted by the Conference, laid down in article 19(5) and (6) of the ILO Constitution. It requests the Government to provide information on the consultations held with the social partners on the proposals made to Parliament upon the submission of instruments adopted by the Conference (Article 5(1)(b) of the Convention). It further requests the Government to provide detailed information on the content of the consultations and the recommendations made by the social partners on each of the matters listed in Article 5(1) of the Convention.***

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

Democratic Republic of the Congo

C158 - Termination of Employment Convention, 1982 (No. 158)

Observation 2016

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

Observations by the Labour Confederation of Congo (CCT). Abusive dismissals. The CCT expresses concern at a collective labour dispute which involved the massive, abusive and unlawful dismissal of around 40 employees of a private multinational enterprise governed by French law, in which the public authorities are reported to have let the situation deteriorate, disregarding the provisions of the Convention. The CCT also refers in this context to the wilful violation by the employer of the OECD Guidelines for Multinational Enterprises, and particularly those on employment and industrial relations. The Committee notes that the CCT called on the authorities to ensure the reinstatement of workers subjected to abusive and unlawful dismissal and the application of the provisions of the Convention respecting severance allowances and collective dismissals. ***The Committee invites the Government to provide its own comments on the observations of the CCT. It hopes that the Government will be in a position to indicate whether the dismissals referred to were based on valid reasons (Article 4 of the Convention) and whether the dismissed workers were entitled to severance allowances (Article 12). It also requests the Government to provide information on the measures adopted to mitigate the effects of the dismissals, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).*** It recalls that the ILO can provide assistance to promote the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

In reply to the previous comments, the Government has provided the relevant provisions of Act No. 13/005 of 15 January 2013 issuing the conditions of service of military members of the armed forces of the Democratic Republic of the Congo (*Article 2(4)* of the Convention). ***The Committee once again invites the Government to provide a report containing information on the practice of the labour inspectorate and the decision of the courts on matters of principle relating to the application of Articles 4, 5 and 7 of the Convention. Please indicate the number of appeals against termination, their outcome, the nature of the remedy awarded and the average time taken for an appeal to be decided (Parts IV and V of the report form).***

Article 7. Procedure prior to, or at the time of, termination. The Government has provided the text of the national interoccupational collective agreement of December 2005, which does not appear to envisage the possibility of a specific procedure to be followed prior to, or at the time of, termination, as required by the Convention. ***The Committee once again invites the Government to provide copies of collective agreements which have provided for this possibility and to indicate in its next report the manner in which this provision of the Convention is given effect for workers not covered by collective agreements.***

Article 12. Severance allowance and other income protection. The Government indicates in its report that section 63 of the Labour Code of 2002 protects employment and recommends reinstatement in the event of the abusive termination of the employment contract. In the absence of reinstatement, damages are set by the labour tribunal. The Committee emphasizes that this method of compensating unjustified termination, namely through the granting of damages by the court, is covered more by *Article 10* of the Convention, which envisages the payment of adequate compensation or such other relief as may be deemed appropriate. The severance allowance, which is one form of income protection, needs to be distinguished from damages paid in the event of unjustified termination. Under the terms of *Article 12* of the Convention, a worker whose employment has been terminated shall be entitled, in accordance with national law and practice, to either a severance allowance or other separation benefits; or to benefits from unemployment insurance or assistance or other forms of social security; or a combination of such allowance and benefits. The Committee recalls its previous comments and notes that the Labour Code does not specify the severance allowance which is to be paid to workers, in accordance with *Article 12* of the Convention. ***The Committee once again invites the Government to indicate the manner in which effect is given to Article 12 of the Convention.***

Articles 13 and 14. Terminations for economic or similar reasons. The Government indicates that the Ministry of Employment, Labour and Social Welfare signed 15 orders authorizing collective terminations for economic or similar reasons, covering 701 workers in 2012–13. ***The Committee invites the Government to indicate whether the dismissed workers were entitled to severance allowances (Article 12). It hopes that the Government will also be in a position to provide information on the measures taken to mitigate the effects of these terminations, as envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166).***

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

Democratic Republic of the Congo

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Democratic Republic of the Congo

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

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Forced recruitment of children for use in armed conflict. In its previous comments the Committee noted that section 187 of Act No. 09/001 of 10 January 2009 establishes a penalty of penal servitude of ten to 20 years for the enrolment or use of children under 18 years of age in the armed forces and groups and the police. The Committee noted that, according to the report of 9 July 2010 of the United Nations Secretary-General on children and armed conflict in the Democratic Republic of the Congo (S/2010/369, paragraphs 17–41), 1,593 cases of recruitment of children were reported between October 2008 and December 2009, including 1,235 in 2009. The report of the United Nations Secretary-General also indicated that 42 per cent of the total number of cases of recruitment reported have been attributed to the Armed Forces of the Democratic Republic of the Congo (FARDC). The Committee also noted with concern that, according to the Secretary-General's report, the number of incidents involving the killing and maiming of children had increased. In addition, a significant increase in the number of abductions of children was also observed over the period covered by the Secretary-General's report, mainly carried out by the Lords' Resistance Army (LRA) but in some cases by the FARDC. The Committee also observed that the Committee on the Rights of the Child (CRC), in its concluding observations of 10 February 2009 (CRC/C/COD/CO/2, paragraph 67), expressed grave concern that the State, through its armed forces, bears direct responsibility for violations of the rights of the child and that it had failed to protect children and prevent such violations.

The Committee notes the Government's indication that children under 18 years of age are not recruited into the armed forces of the Democratic Republic of the Congo. Nevertheless, the Committee notes that, according to the report of 23 April 2011 of the United Nations Secretary-General on children and armed conflict (A/65/820-S/2011/250, paragraph 27), many children continue to be recruited and remain associated with FARDC units, particularly within former units of the *Congrès national pour la défense du peuple* (CNDP) incorporated into the FARDC. The report also indicates that, of the 1,656 children in the armed forces or groups who escaped or were released in 2010, a large proportion had been recruited to the FARDC (21 per cent) (paragraph 37). Moreover, despite the drop in the number of cases of children recruited into armed forces and groups in 2010, the report points out that former CNDP elements continue to recruit or to threaten to recruit children under 18 years of age from schools in North Kivu (paragraph 85). The Committee also notes that no judicial action has been initiated against the suspected perpetrators of forced recruitment of children, some of whom remain in the command structure of the FARDC (paragraph 88).

Furthermore, physical and sexual violence committed against children by the FARDC, the Congolese National Police and various armed groups continued to be a source of serious concern in 2010. The Committee notes in particular that in 2010, of the 26 recorded cases of killing of children, 13 were attributed to the FARDC. In addition, seven cases of maiming of children and 67 cases of sexual violence against children are alleged to have been perpetrated by FARDC elements during the same period (paragraph 87).

The Committee observes that despite the adoption of Legislative Decree No. 066 of 9 June 2000, concerning the demobilization and reintegration of vulnerable groups present within the fighting forces, and of Act 09/001 of 10 January 2009, which prohibits and penalizes the enrolment and use of children under 18 years of age in armed forces and groups and the police (sections 71 and 187), children under 18 years of age continue to be recruited and forced to join the regular armed forces of the Democratic Republic of the Congo and armed groups. The Committee expresses deep concern at this situation, especially as the persistence of this worst form of child labour results in other violations of children's rights, such as murder and sexual violence. ***The Committee therefore urges the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children in the ranks of the FARDC and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed groups. With reference to Security Council resolution 1998 of 12 July 2011, which recalls "the responsibilities of States to end impunity and to prosecute those responsible for genocide, crimes against humanity and other egregious crimes perpetrated against children", the Committee urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of any persons, including officers in the regular armed forces, who forcibly recruit children under 18 years of age for use in armed conflict, are carried out and that sufficiently effective and dissuasive penalties are imposed in practice, pursuant to Act No. 09/001 of 10 January 2009. It requests the Government to provide information on the number of investigations conducted, prosecutions brought and convictions handed down against such persons in its next report.***

Clauses (a) and (d). Forced or compulsory labour and hazardous work. Child labour in mines. In its previous comments the Committee noted the statement by the Confederation of Trade Unions of the Congo (CSC) that young persons under 18 years of age are employed in mineral quarries in the provinces of Katanga and East Kasai. It noted that the United Nations Special Rapporteur, in her report of April 2003 on the situation of human rights in the Democratic Republic of the Congo (E/CN.4/2003/43, paragraph 59), noted that military units are recruiting children for forced labour, especially for the extraction of natural resources. The Committee observed that, although the legislation is in conformity with the Convention on this point, child labour in mines is a problem in practice and it, therefore, asked the Government to supply information on the measures which would be taken by the labour inspectorate to prohibit hazardous work by children in mines.

The Committee notes the Government's indication that action to strengthen the capacities of the labour inspectorate is planned in the context of the formulation and implementation of the National Plan of Action (PAN) for the elimination of child labour by 2020. The report also indicates that the Government has launched consultations with a view to gathering statistics on the application, in practice, of legislation relating to the prohibition on hazardous work in mines for children under 18 years of age. However, the Committee notes the UNICEF statistics included in the Government's report, which indicate that nearly 50,000 children are working in mines in the Democratic Republic of the Congo, including 20,000 in the province of Katanga (south-east), 12,000 in Ituri (north-east) and some 11,800 in Kasai (centre). Moreover, the Committee observes that, according to the information in the 2011 report on trafficking in persons, armed groups and the FARDC are recruiting men and children and subjecting them to forced labour for the extraction of minerals. According to the same document, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) report of January 2011 reports that a commander of one of the FARDC battalions makes use of the forced labour of children in mines in North Kivu. The Committee expresses its deep concern at the allegations that children under 18 years of age are used, especially by certain elements of FARDC, for the extraction of minerals in conditions similar to slavery and in hazardous conditions. ***The Committee therefore urges the Government to take immediate and effective measures, as a matter of urgency, to eliminate the forced or hazardous labour of children under 18 years of age in mines. It requests the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of offenders are carried out and that sufficiently effective and dissuasive penalties are imposed on them in practice. The Government is also requested to provide statistics on the application of the legislation in practice and also requests it to provide information on action to strengthen the capacities of the labour inspectorate planned in the context of the PAN.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. Child soldiers. In its previous comments, the Committee noted that, according to the report of the United Nations Secretary-General of 9 July 2010, the number of children released in 2009 more than tripled in comparison with 2008, particularly in the province of North Kivu (S/2010/369, paragraphs 30 and 51–58). Between October 2008 and the end of 2009, a total of 3,180 children (3,004 boys and 176 girls) left the ranks of the armed forces and groups or fled and were admitted to reintegration programmes. However, the Committee noted with concern that on many occasions the FARDC denied access to the camps to child protection institutions seeking to verify the presence of children in FARDC units and that the commanders refused to release children. The Committee also observed that there were many obstacles to effective reintegration, such as the constant insecurity and the continuing presence of former recruiters in the same region. The Committee further noted that the CRC, in its concluding observations of 10 February 2009 (CRC/C/COD/CO/2, paragraph 72), expressed concern at the fact that no provision has been made to assist several thousand child victims recruited or used in hostilities with rehabilitation and reintegration and that some of these children have been re recruited for want of alternatives or assistance with demobilization. According to the report of the Secretary-General of 9 July 2010, girls associated with the armed forces and groups (around 15 per cent of

the total number of children) rarely have access to reintegration programmes, with only 7 per cent receiving assistance through national disarmament, demobilization and reintegration programmes.

The Committee notes the information provided by the Government concerning the results achieved regarding the demobilization of child soldiers by the new structure of the Unit for the Implementation of the National Programme for Disarmament, Demobilization and Reintegration (UE-PNDDR). It observes that more than 30,000 children have been separated from the armed forces and groups since the launch of the programme in 2004, including nearly 3,000 in 2009 and 2010. Moreover, 6,704 children removed from the armed forces and groups (1,940 girls and 4,764 boys) received support in 2010. However, the Committee observes that, according to the report of 23 April 2011 of the United Nations Secretary-General on children and armed conflict, only 1,656 children recruited to the armed forces or groups escaped or were released in 2010 (A/65/820-S/2011/250, paragraph 37). Of these, the vast majority fled and only a small minority were released by child protection institutions (paragraph 38). The Committee also notes with regret that, according to the aforementioned report, the Government has not been forthcoming in engaging with the United Nations on an action plan to end the recruitment and use of children by the FARDC (paragraph 27). The Committee further observes that, although more than 50 screening attempts were carried out by MONUSCO aimed at demobilizing children under 18 years of age who had been recruited to the FARDC, only five children were demobilized owing to the fact that FARDC troops were not made available for screening by MONUSCO. The Committee also notes that a large number of children released in 2010 stated that they had been recruited several times (paragraph 27) and that some 80 children who had been reunited with their families returned to the transit centres alone in North Kivu during November 2010 for fear of being re-recruited (paragraph 85). ***The Committee therefore urges the Government to intensify its efforts and take effective, time-bound measures to remove children from armed groups and forces and ensure their rehabilitation and social integration, giving special attention to the demobilization of girls. It expresses the firm hope that the Government will adopt a time-bound plan of action in the very near future, in collaboration with MONUSCO, to put a stop to the recruitment of children under 18 years of age into the regular armed forces and to ensure their demobilization and reintegration. The Committee also requests the Government to continue to provide information on the number of child soldiers removed from armed forces and groups and reintegrated through appropriate assistance with rehabilitation and social integration. It requests the Government to provide information on this matter in its next report.***

Children working in mines. The Committee previously noted that a number of projects for the prevention of child labour in mines and the reintegration of these children through education were being implemented, aimed at covering a total of 12,000 children, of whom 4,000 were to be covered by prevention measures and 8,000 were to be removed from labour with a view to their reintegration through vocational training.

The Committee notes the Government's indication that efforts are being made to remove children working in mines from this worst form of child labour. The Government also indicates in its report that more than 13,000 children have been removed from three mining and quarrying locations in Katanga, East Kasai and Ituri as part of the work of the NGOs Save the Children and Solidarity Centre. These children were then placed in formal and non-formal education structures and also in apprenticeship programmes. However, the report also indicates that, in view of the persistence of the problem, much work remains to be done. ***The Committee therefore requests the Government to intensify its efforts to prevent children under 18 years of age from working in mines and to provide the necessary and appropriate direct assistance for their removal from these worst forms of child labour and to ensure their rehabilitation and social integration. It requests the Government to provide information on the measures taken or contemplated in the context of the PAN and on the results achieved.***

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

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

Djibouti

C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

Observation 2016

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

Article 1 of the Convention. Establishment of minimum wage fixing machinery. Further to its previous comments on the abolition of the guaranteed interoccupational minimum wage (SMIG) system, the Committee notes the information contained in the Government's report, according to which: (1) based on a broad interpretation of section 260 of the Labour Code, the minimum wage rates fixed through collective agreements are legally binding; (2) a new National Council for Labour, Employment and Social Security (CONTESS) was established by Decree No. 2012-273/PR/MTRA of 30 December 2012, which was also the date of its first meeting; (3) the minimum wage was adjusted to 35,000 Djibouti francs (or US$200), along with low wages, under the new collective agreement of the public administration and public establishments, concluded on 26 December 2011; (4) 3,784 contractual employees have benefited from this adjustment; and (5) the Minister urged the private sector to adjust the minimum wage when renegotiating collective agreements.

While noting this information, the Committee observes that minimum wages continue to be determined solely through collective bargaining, and that the Government does not mention any decision on the reintroduction of a national minimum wage. The Committee wishes to recall once again that the Convention provides for the establishment of machinery to fix minimum wage rates for workers employed in trades or parts of trades in which no arrangements exist for the effective regulation of wages by collective agreement, and wages are exceptionally low. It also recalls that the establishment of minimum wage fixing machinery outside the system of collective bargaining is essential for ensuring effective social protection for workers who are not covered by the rules relating to collective agreements, and that the Government must take the necessary measures to ensure that the application of minimum wage rates set by collective agreement is linked to a system of supervision and effective penalties. ***The Committee hopes that the Government will take the necessary measures to bring its national law and practice into full conformity with this provision of the Convention.***

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

C063 - Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63)

Observation 2016

Technical assistance. The Committee notes the information provided by the Government in its brief report, including its request for ILO technical assistance to assist it in filling the gaps in implementation of the Convention. It recalls that the Government had not submitted information since October 2005. The Committee notes the information concerning the 2012 *Statistical Yearbook,* which is available online, as well as the 2015 *Household Survey,* to be published in June 2016. The Committee further notes that, according to the information available to the ILO Department of Statistics, labour market statistics in Djibouti are not compiled on a regular basis. ***The Committee requests that the Government provide information on the results and methodology of the 2015 Household Survey, as soon as it becomes available, and to regularly provide information on the application of the Convention.***

The Committee notes the recommendations of the Standards Review Mechanism Tripartite Working Group and the corresponding decision of the Governing Body at its 328th Session in October–November 2016 (GB/328/LILS/2/1) calling upon the Office to commence follow-up with member States that are still bound by this Convention, encouraging them to ratify the Labour Statistics Convention, 1985 (No. 160), as the most up-to-date instrument in this area, and resulting in the automatic denunciation of Convention No. 63. ***The Committee reminds the Government of the availability of ILO technical assistance in this regard.***

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

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

The Committee takes note of the observations made by the International Trade Union Confederation (ITUC) in a communication received on 1 September 2014 as regards the continuing acts of intimidation and repression against the Labour Union of Djibouti (UDT) and the General Union of Djibouti Workers (UGTD). The Committee notes the Government's reply which, in the main, denies the allegations. The Committee takes note of the observations submitted by the International Organisation of Employers (IOE) on 1 September 2014.

Article 3 of the Convention. Right of workers' organizations to organize their administration and activities in full freedom. The Committee particularly notes with *deep concern* the ITUC's allegations that Mr Adan Mohamed Abdou, Secretary-General of the UDT, who was supposed to attend the 103rd Session of the International Labour Conference (May–June 2014) as an ITUC observer, was arrested at Djibouti airport and had his travel documents and luggage confiscated. In this respect, the Committee notes that the Credentials Committee also expressed its deep concern at the arrest of Mr Mohamed Abdou at Djibouti airport and observed that the incident seemed to confirm that the harassment suffered by the UDT had not ceased (second report of the Credentials Committee, International Labour Conference, 103rd Session, Geneva, May–June 2014, paragraph 18). The Committee notes that, in its reply, the Government merely indicates that it does not recognize Mr Mohamed Abdou's status as a Worker representative because he is a duly elected Member of Parliament. The Government states that the legislation of Djibouti forbids a political leader from holding a trade union position. ***The Committee recalls that it already pointed out in its 2011 observation that the confiscation of Mr Mohamed Abdou's travel documents by the authorities, in December 2010, had prevented him from fulfilling his commitments of representation at both regional and international levels. Deploring this new restriction by the authorities on Mr Mohamed Abdou's freedom of movement, the Committee requests the Government to provide a copy of the specific legislation or other legal basis for forbidding him to leave the country, which prevented him from attending the International Labour Conference in May–June 2014 and to respect fully the rights guaranteed by the Convention.***

Legislative issues. The Committee recalls that its comments have focused, for many years, on the need to take measures to amend the following legislative provisions:

·– section 5 of the Act on Associations, which requires organizations to obtain authorization prior to their establishment as trade unions; and

·– section 23 of Decree No. 83-099/PR/FP of 10 September 1983, which confers upon the President of the Republic broad powers to requisition public servants.

The Committee trusts that the Government will indicate in its next report specific progress in this regard.

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

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

Djibouti

C094 - Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

Observation 2016

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

Article 2 of the Convention. Insertion of labour clauses in public contracts. In its previous comment, the Committee asked the Government to submit a detailed report on the state of national law and practice regarding labour clauses in public contracts in the light of the public procurement legislation, including Act No. 53/AN/09/6th L of 1 July 2009 establishing the Public Procurement Code and Decrees Nos 2010-0083/PRE, 2010-349/PRE and 2010-0085/PRE, all dated 8 May 2010. The Committee notes that section 13.1.1 of the abovementioned Code excludes individuals or entities that have not submitted the applicable declarations regarding direct and indirect taxation and employers' contributions or have not made payments to the competent revenue collection services for concluding contracts or obtaining orders from the State. Furthermore, the Committee notes that clause 9.1 of the General Administrative Terms and Conditions applicable to public procurement, adopted by Decree No. 2010-0084/PRE of 8 May 2010, provides that, unless the contract states otherwise, the entrepreneur is responsible for the recruitment of staff and workers, nationals or otherwise, and also for their remuneration, board, lodging and transport, in strict compliance with the regulations in force, particularly the labour regulations (especially regarding hours of work and rest days), the social regulations and all the applicable safety and health regulations. The Committee notes that this clause and the exclusion provided for in section 13.1.1 of the Public Procurement Code are insufficient to give effect to the key requirements of the Convention, namely the insertion of labour clauses in all public contracts coming within the scope of *Article 1* of the Convention – drawn up after consultation of the employers' and workers' organizations – ensuring to the workers concerned conditions of remuneration and other conditions of labour which are not less favourable than those established by national laws or regulations, collective agreements or arbitration awards for work of the same character in the same sector. It is precisely because conditions of employment and work established in the national labour legislation are often improved by collective bargaining that the Committee has systematically considered that the mere fact that the legislation applies to all workers does not release the government concerned from its obligation to include labour clauses in all public contracts, in accordance with *Article 2(1)* and *(2)* of the Convention. ***Recalling that the Convention does not necessarily require the adoption of new legislation but may be applied by means of administrative instructions or circulars, the Committee again requests the Government to take prompt steps to ensure the effective implementation of the Convention and recalls that the Government may avail itself of ILO technical assistance if it so wishes.***

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

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee had previously noted the observations jointly submitted by Education International (EI), the Trade Union of Middle and High School Teachers of Djibouti (SPCLD) and the Trade Union of Primary School Teachers (SEP) in a communication received on 10 September 2014 which denounced the harassment, arbitrary transfers and dismissals of teachers belonging to a trade union. The Committee also took note of the Government's reply denying these allegations. ***Recalling that EI and the SEP submitted a complaint on the same allegations to the Committee on Freedom of Association in February 2014, the Committee refers to the recommendations formulated in March 2015 by the Committee on Freedom of Association concerning this case (Case No. 3058, 374th Report) and urges the Government to implement these recommendations.***

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

Articles 1 and 2 of the Convention. Protection against acts of anti-union discrimination and interference. The Committee notes the observations submitted by the International Trade Union Confederation (ITUC) on 1 September 2014 concerning persistent acts of anti-union discrimination, including dismissals, against members of the Labour Union of Djibouti (UDT) and the General Union of Djibouti Workers (UGTD). The Committee notes that the Government's reply, in the main, denies the allegations.

In general, the Committee notes with concern that some trade union organizations are still finding it difficult to exercise their trade union activities without interference. ***Recalling the obligation under the Convention to guarantee that workers enjoy adequate protection against acts of anti-union discrimination (Article 1 of the Convention) and to ensure that workers' and employers' organizations enjoy adequate protection against any acts of interference (Article 2), the Committee firmly requests the Government to take all necessary measures to ensure the full respect of these obligations for all the trade union organizations operating in the country.***

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

Djibouti

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

Article 1 of the Convention. National policy to ensure the effective abolition of child labour; application of the Convention in practice. In its previous comments, the Committee noted the Decent Work Country Programme (DWCP) 2008–12 for Djibouti, which prioritized, inter alia, the improvement of conditions of work by promoting national and international labour standards, with a particular focus on child labour. The Committee also noted the adoption of the National Strategic Plan for Children in Djibouti (PSNED) for the 2011–2015 period, with the goal of establishing a protective environment conducive to the observance of the fundamental rights of children. The Committee asked the Government to provide information on the implementation of the DWCP and the PSNED and on the results achieved regarding the progressive elimination of child labour. It also asked the Government to provide information on progress made in framing a national policy to combat child labour.

The Committee notes that, according to UNICEF, for the 2002–12 period, 7.7 per cent of children between five and 14 years of age in Djibouti were engaged in activities deemed to be work. The Committee notes the Government's indication in its report that it is not in a position to communicate the results achieved through the PSNED since the studies conducted are still in draft form. The Government also indicates that the DWCP could not be adopted owing to a lack of agreement with the trade unions and it hopes for a resumption of social dialogue, with ILO assistance, with a view to adoption and implementation of the DWCP in the near future. The Committee also notes the "Djibouti Compendium of Statistics" attached to the Government's report and the Government's statement that the Directorate of Statistics and Demographic Studies (DISED) has not undertaken any survey in relation to child labour. ***The Committee firmly hopes for a resumption of social dialogue without delay and requests that the Government take the necessary steps to ensure the effective implementation of the DWCP and the PSNED. It requests that the Government provide information on the results achieved regarding the progressive elimination of child labour and on progress made in framing a national policy to combat child labour. Lastly, the Committee again requests that the Government take the necessary measures to ensure that studies on the extent and nature of child labour in Djibouti are conducted in the near future, and that the results are then communicated to the Office.***

Article 2(1). Scope of application and labour inspection. The Committee previously noted that, by virtue of section 1 of Act No. 133/AN/05/5ème issuing the Labour Code (hereinafter: Labour Code), the Labour Code applies only to employment relationships. It also noted the Government's indication that the provision on the minimum age for access to work is observed in the formal sector but is not applied effectively in the informal economy. The Committee further noted that, despite new Act No. 199/AN/13/6ème, supplementing Act No. 212/AN/07/5ème establishing the National Social Security Fund, which extends health-care benefits to all self-employed workers in the informal economy, the Government recognized that the lack of structure in the informal economy prevented the identification of issues faced by young workers in the sector.

The Committee notes the Government's indication that it hopes to submit the question of informal work to the National Labour Council, with a particular focus on the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The Committee recalls that the Convention applies to all branches of economic activity, whether formal or informal, and that it covers all types of employment or work, whether or not it is effected on the basis of a dependent employment relationship, and whether or not it is remunerated. ***The Committee therefore requests that the Government take steps to ensure that the protection afforded by the Convention is secured to children under 16 years of age working in the informal economy, particularly by adapting and strengthening the labour inspectorate in order to improve labour inspectors' capacity to identify cases of child labour. It requests that the Government provide information on this matter and also to communicate the results achieved.***

Article 2(3). Age of completion of compulsory schooling. The Committee previously noted that, according to section 4 of Act No. 96/AN/00/4ème setting out the policy for Djibouti's education system, the State guarantees education for children from the age of six to 16 years. The Committee also noted that, in 2006, the net primary school enrolment rate was 66.2 per cent and at secondary level the rate was 41 per cent.

The Committee notes that, despite the improvements in school attendance, Djibouti still has a low school enrolment rate and that the goal, established in the PSNED, of achieving a 100 per cent enrolment rate for children in the 6–10 age group by 2015 was not achieved. Indeed, in 2014, according to the UNESCO Institute of Statistics, the attendance rate was 67.39 per cent in primary education and 46.35 per cent in secondary education. ***Recalling that compulsory education is one of the most effective means of combating child labour, the Committee requests that the Government intensify its efforts and take measures that will ensure children's participation in compulsory basic schooling, or in an equivalent setting. It requests that the Government provide information on the recent measures taken to increase the school attendance rate, at both primary and secondary levels, so as to prevent children under 16 years of age from working. It further requests that the Government provide recent statistics on the primary and secondary school enrolment rates in Djibouti.***

Article 3(1). Age of admission to hazardous work. The Committee previously noted that, according to section 112 of the Labour Code, at the request of a labour inspector, women or young persons between 16 and 18 years of age may not be placed in employment recognized as being beyond their strength by an approved doctor. However, the Committee observed that the national legislation does not appear expressly to establish, as *Article 3(1)* of the Convention requires, a minimum age of 18 years for any type of employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons. ***Noting once again the lack of information on this matter in the Government's report, the Committee again requests that the Government take the necessary measures to ensure that no person under 18 years of age is authorized to engage in hazardous work, in accordance with Article 3(1). It requests that the Government provide information on the progress made in this regard.***

Article 3(2). Determination of hazardous types of work. The Committee recalls that, according to section 110 of the Labour Code, the employment of young persons in domestic work, hotels and bars is strictly prohibited, with the exception of employment strictly in the area of catering. Furthermore, under section 111 of the Labour Code, an order adopted on the proposal of the Minister of Labour and the Minister of Health, after consultation with the National Council for Labour, Employment and Social Security (CONTESS), shall determine the nature of the work and the categories of enterprise prohibited for all women, pregnant women and young people, and the applicable minimum age. The Committee previously asked the Government to adopt such an order on jobs and enterprises prohibited for young people.

The Committee again notes the Government's indication that the order in question has been drawn up and that it has pledged to refer the adoption thereof to CONTESS. It also indicates that no controls have been undertaken to date by the labour inspectorate on hazardous types of work performed by young people. ***The Committee again requests that the Government take the necessary steps as a matter of urgency to ensure that the order determining the nature of the work and the categories of enterprise prohibited for young people under 18 years of age is adopted under section 111 of the Labour Code in the near future.***

Noting the interest expressed by the Government in obtaining technical assistance from the Office, the Committee invites the Government to avail itself of ILO technical assistance in order to facilitate the application of the Convention.

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

Djibouti

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

Observation 2016

Articles 1 and 3(1) of the Convention. Participation of representative organizations. The Government indicates in its report that it is taking steps to create a legal framework, in consultation with the most representative employers' and workers' organizations, which is conducive to ensuring respect for freedom of association. In this context, two draft texts were drawn up in 2013 in consultation with the social partners and submitted to the National Council for Labour, Employment and Social Security (CONTESS) in 2014. The first text aims to create an institutional framework to resolve the issue of representativeness. The second text aims to strengthen the electoral procedures for holding national or track unions' elections, particularly free and independent elections which are essential to ensure the legitimacy of the constitution of any workers' or employers' organization, but also to ensure representativeness. The Committee notes that it was planned for the first draft text to be submitted for approval to the members of CONTESS in April 2016. ***Referring to its previous comments, the Committee again expresses the hope that the Government will be in a position to secure for all employers' and workers' organizations present in the country the right to free and transparent elections in an environment that fully respects their capacity to act with complete independence. It requests the Government to send the abovementioned draft texts to the Office, once they have been adopted. The Committee expects that these draft texts will establish objective and transparent criteria for appointing workers' representatives to national and international tripartite bodies, including the International Labour Conference.***

Article 4(2). Financing of training. The Government indicates that it does not currently cover the cost of training for the social partners. It adds that the "Operational action plan 2014–18", adopted under the national employment policy, includes a component in its programme on the prevention and management of labour disputes. ***The Committee again requests the Government to describe the arrangements made for the financing of any necessary training for participants in consultation procedures, particularly training planned in relation to the national employment policy.***

Article 5. Tripartite consultations required by the Convention. Frequency of tripartite consultations. The Committee notes the record of the annual meeting of CONTESS which took place on 30 April 2014. The Government indicates that no consultations took place with the social partners in 2015. ***The Committee requests the Government to provide detailed information on the consultations held on each of the matters referred to in Article 5(1) of the Convention, indicating the content of the recommendations made by the social partners further to the said consultations. It also requests the Government to respect the frequency of tripartite consultations required by Article 5(2) of the Convention prescribing appropriate intervals fixed by agreement, but at least once a year.***

[The Government is asked to reply in full to the present comments in 2017.]

Djibouti

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Articles 3(b) and 7(2) of the Convention. Use, procuring or offering of a child for prostitution or illicit activities; effective and time-bound measures. Clause (b). Assistance for removing children from the worst forms of child labour. The Committee previously noted that the Committee on the Rights of the Child (CRC) once again expressed its concern at the high number of children, particularly girls, involved in prostitution and at the lack of facilities providing services for sexually exploited children.

The Committee notes the Government's indication that it does not have up to-date information on this matter. ***The Committee urges the Government to take effective and time-bound measures to remove children from prostitution, and to ensure their rehabilitation and social integration. It also requests the Government to supply information on the progress achieved in this respect.***

Articles 3(d) and 4(1). Hazardous work and determination of these types of work. ***As regards the prohibition on employing children under 18 years of age in work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children, as prescribed by Article 3(d) of the Convention, and also the adoption of a list of hazardous types of work, the Committee refers to its detailed comments relating to the Minimum Age Convention, 1973 (No. 138).***

Article 6. Programmes of action to eliminate the worst forms of child labour. The Committee previously noted that in the context of activities carried out under the Decent Work Country Programme (DWCP) for Djibouti for 2008–12, which prioritized, inter alia, the improvement of conditions of work through the promotion of national and international labour standards, with a particular focus on child labour, one of the objectives was that the ILO constituents and the social partners should work together to prevent and eliminate the worst forms of child labour. In this regard, it was planned to formulate and implement a national plan of action for the elimination of the worst forms of child labour.

The Committee notes the Government's indication that the DWCP has not been adopted owing to a lack of agreement between the Government and the trade unions but that it hopes that, with the help of the Office, social dialogue can resume and that the national plan of action for the elimination of the worst forms of child labour will be adopted and implemented. ***The Committee firmly hopes that social dialogue will resume as soon as possible. It again requests the Government to take immediate and effective measures to ensure that the national plan of action for the elimination of the worst forms of child labour is formulated, adopted and implemented as soon as possible and to provide information on the progress made in this respect.***

Article 7(2)(d). Identifying children at special risk. 1. *HIV/AIDS orphans.* In its previous comments, the Committee noted that despite the measures taken by the Government in favour of orphans and vulnerable children (OVCs), the number of HIV/AIDS orphans had increased (to 8,800 in 2011).

The Committee notes that the Government does not supply any information on the measures taken to prevent the engagement of HIV/AIDS orphans in the worst forms of child labour. However, the Committee notes that according to the UNICEF publication *The state of the world's children 2016: A fair chance for every child,* a total of 6,000 children were orphaned as a result of HIV/AIDS in 2014. It also notes that the Ministry of Health has drawn up a National Health Development Plan (2013–17), which indicates that in the context of the Horn of Africa Partnership (HOAP) to address HIV vulnerability and cross-border mobility, the Government renewed its commitment to intensifying and strengthening inter-ministerial collaboration at the national and subregional levels in order to stop the spread of HIV/AIDS and reverse the current trend of this scourge. ***Recalling that HIV/AIDS orphans are at greater risk of involvement in the worst forms of child labour, the Committee again requests the Government to supply information on the impact of measures, policies and plans aimed at preventing the engagement of HIV/AIDS orphans in the worst forms of child labour, and on the results achieved.***

2. *Street children.* The Committee previously noted the Government's statement that most of the children living and working on the streets were of foreign origin and often worked as beggars or shoeshine boys or girls. It also noted that the CRC continued to express concern at the very high number of children still on the streets and at the continued exposure of these children to prostitution, sexually transmissible infections, including HIV/AIDS, economic and sexual exploitation, and violence.

The Committee notes that the Government does not provide any information in this respect. However, it notes that a paper entitled *Humanitarian action for children,* published by UNICEF in 2016, indicates that 200 street children received social assistance through the humanitarian action of UNICEF, with the collaboration of the Government. ***Recalling that street children are particularly exposed to the worst forms of child labour, the Committee again urges the Government to take immediate and effective measures to protect them from the worst forms of child labour and ensure their rehabilitation and social reintegration, and also to provide information on progress made in this respect.***

Application of the Convention in practice. The Committee previously noted that the CRC observed that there were gaps in the surveys that had been carried out in the areas of poverty, education and health, and that there was insufficient capacity to centralize and analyse population data. The Committee notes the Government's wish to obtain technical assistance from the Office with regard to drawing up statistics. ***The Committee requests the Government once again to take steps to ensure the availability of statistics on the nature, extent and trends of the worst forms of child labour, disaggregated by age and gender, and on the number of children covered by the measures giving effect to the Convention.***

Noting the interest expressed by the Government in obtaining technical assistance, the Committee invites the Government to avail itself of technical assistance from the Office in order to facilitate the implementation of the Convention.

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

Egypt

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 31 August 2014 and 31 August 2016, which refer to legislative issues already being raised by the Committee, as well as allegations of arrest and harassment of trade unionists. The Committee further notes the observations of several Egyptian trade unions received from the ITUC on 1 September 2016. ***The Committee urges the Government to provide its comments on the serious allegations contained in these communications.*** The Committee takes note of the comments of the Government on the observations from the ITUC of 2013 and the Government's expression of its commitment to comply with Conventions it has ratified. The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

The Committee recalls that in its previous comments it noted with interest that the final draft law on trade union organizations and protection of the right to organize was being discussed by the Council of Ministers and was expected to be finalized soon. The Committee expected that the draft would be adopted in the very near future and would ensure full respect for freedom of association rights, and it requested the Government to transmit a copy of the law once promulgated. The Committee notes from the Government's latest report that a draft law on freedom of association was prepared to replace the current Trade Unions Act No. 35 of 1976, was approved by the Council of Ministers and is currently before the House of Representatives *(Majlis Al Nouwab)* for adoption. According to the Government, the draft law takes into account the comments made by the Committee on the need to ensure conformity of national legislation with the provisions of the Convention. The Committee, however, notes with ***concern*** the ITUC's observations that no tangible results have been delivered on the discussions for a new trade union law since 2011 and that the independent trade unions are still awaiting formal recognition.

The Committee further notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 3025 (375th Report, paragraphs 201–210) in which the Committee expressed its expectation that the draft law on trade union organizations will provide clear legislative protection to the numerous newly formed independent trade unions and ensure full respect for freedom of association rights and requested the Government to transmit detailed information in this regard and supply a copy of the law to the Committee of Experts.

The Committee, therefore, finds itself bound to recall the comments it has been making for several years on the discrepancies between the Convention and the Trade Union Act No. 35 of 1976 as amended by Act No. 12 of 1995 (hereinafter: Trade Union Act), with regard to the following points:

·-the institutionalization of a single trade union system under the Trade Union Act, and in particular sections 7, 13, 14, 17 and 52;

·-the control granted by law to higher level trade union organizations, and particularly the Confederation of Trade Unions, over the nomination and election procedures to the executive committees of trade unions, under the terms of sections 41, 42 and 43 of the Trade Union Act;

·-the control exercised by the Confederation of Trade Unions over the financial management of trade unions, by virtue of sections 62 and 65 of the Trade Union Act;

·-prohibition from joining more than one workers' organization (section 19(f) of the Trade Union Act);

·-the removal from office of the executive committee of a trade union which has provoked work stoppages or absenteeism in a public service or community services (section 70(2)(b) of the Trade Union Act); and

·-the requirement of the prior approval of the Confederation of Trade Unions for the organization of strike action, under section 14(i) of the Trade Union Act.

The Committee requests the Government to transmit a copy of the draft law and trusts that the law will ensure full freedom of association rights under the Convention. The Committee urges the Government to report further progress in this regard.

As regards the comments it has been making for several years on the Labour Code No. 12 of 2003, the Committee notes that the legislative committee set up at the Ministry of Manpower and Migration has finalized the formulation of the new draft Labour Code and societal dialogue sessions are being held with employers' and workers' organizations, and civil society organizations, to discuss the draft. As soon as the discussions are finished, it will be submitted to the *Majlis Al-Nouwab* for adoption. The Committee recalls in this regard its previous comments in relation to the Labour Code:

·-certain categories of workers excluded from the scope of the Labour Code (public servants in state agencies who do not exercise authority in the name of the State, including local public administrations and public authorities, domestic and similar workers, and workers who are members of the employer's family and dependent upon the latter) do not enjoy the right to strike;

·-legal obligation (accompanied by a penalty) for workers' organizations to specify in advance the duration of a strike (sections 69(9) and 192 of the Labour Code);

·-recourse to compulsory arbitration at the request of one of the parties (sections 179 and 187 of the Labour Code); and

·-excessive restrictions on the right to strike (sections 193 and 194 of the Labour Code), accompanied by penalties (section 69(9) of the Labour Code).

The Committee firmly expects the Government to introduce amendments to the Labour Code taking full account of the above comments. It requests the Government to provide information in its next report on the progress made in this regard and to supply any related amendments proposed or adopted.

[The Government is asked to reply in full to the present comments in 2017.]

Egypt

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes the observations received on 31 August 2014 and 31 August 2016 by the International Trade Union Confederation (ITUC), which refer to legislative issues already being raised by the Committee, as well as allegations concerning numerous cases of retaliatory measures, including dismissals of workers and trade union officials for exercising their legitimate trade union activities. ***The Committee requests the Government to provide its comments on these allegations.*** The Committee notes the Government's reply on the observations from the ITUC of 2013 and the Government's expression of its commitment to comply with Conventions it has ratified.

In its previous comments, the Committee noted that the final draft law on trade union organizations and protection of the right to organize, which had been transmitted by the Government, abandoned the former single trade union system and recognized trade union pluralism. The Committee firmly expected that the draft law would be adopted in the very near future and would ensure full respect for freedom of association rights. The Committee notes from the Government's latest report that a draft law on freedom of association was prepared to replace the current Trade Unions Act No. 35 of 1976, approved by the Council of Ministers and currently before the House of Representatives *(Majlis Al Nouwab)* for adoption. According to the Government, the draft law took into account the comments made by the Committee on the need to ensure conformity of national legislation with the provisions of the Convention. The Committee however notes with ***concern*** the ITUC's comments that no tangible results have been delivered on the discussions for a new trade union law since 2011 and that the independent trade unions are still awaiting formal recognition.

The Committee further notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 3025 (375th Report, paragraphs 201–210) in which the Committee expresses its expectation that the draft law on trade union organizations will guarantee comprehensive and effective protection against anti-union discrimination of all leaders and members of the new independent unions and requests the Government to transmit detailed information in this regard and supply a copy of the law to the Committee of Experts.

The Committee requests the Government to transmit a copy of the draft law and trusts that it will ensure full protection of the rights under the Convention to all trade unions.

Article 4 of the Convention. Promotion of collective bargaining. As regards the comments it has been making for several years on the Labour Code No. 12 of 2003, the Committee notes that the legislative committee set up at the Ministry of Manpower and Migration has finalized the formulation of the new draft Labour Code and societal dialogue sessions are being held with employers' and workers' organizations, and civil society organizations, to discuss the draft. As soon as the discussions are finished, it will be submitted to the *Majlis Al-Nouwab* for adoption. The Committee recalls in this regard its previous comments in relation to the Labour Code:

·-the need to repeal sections 148 and 153 of the Labour Code, as they enable higher level organizations to interfere in the negotiation process conducted by lower level organizations;

·-as regards sections 179 and 187, in conjunction with sections 156 and 163 of the Labour Code, the need to amend the Labour Code so that the parties could have recourse to arbitration only by mutual agreement.

The Committee firmly expects the Government to introduce amendments to the Labour Code taking full account of the above comments. It requests the Government to provide information in its next report on the progress made in this regard and to supply any related amendments proposed or adopted.

Articles 4 and 6. Collective bargaining for public servants not engaged in the administration of the State. Finally, the Committee notes the Government's reply to the ITUC observations concerning the exclusion of public servants of state agencies, including local government units, from the right to collective bargaining, confirming that the exclusion is limited to public servants engaged in the administration of the State. The Committee further notes information from the Government that a legislative committee was set up to formulate a proposal for the amendment of Law No. 47 of 1978 on civil servants in the light of current developments. ***The Committee requests the Government to provide information on any developments in this respect.***

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

Articles 1(b) and 2 of the Convention. Work of equal value. Legislation. In its previous observation, the Committee had emphasized once again that the equal remuneration provisions of Labour Law No. 12 of 2003 did not fully reflect the principle of equal remuneration for men and women for work of equal value as laid down in the Convention and noted that a committee had been established to review the provisions of this Law with a view to bringing the labour legislation into line with ratified international labour standards. In its report, the Government merely states that the Constitution adopted in 2014 prohibits discrimination. In this respect, the Committee observes that the new Constitution still does not expressly reflect the principle of equal remuneration for men and women for work of equal value contained in the Convention. It notes however that, according to the Government, the pending amendments to the Labour Law, drafted with the technical assistance of the Office, take into account the principle of equal remuneration for work of equal value. The Committee also notes that preliminary steps have been taken with a view to the adoption of an act specifically addressing gender equality. ***Consequently, the Committee once again requests the Government to seize the opportunity presented by the current review of the Labour Law and by the drafting of an act on gender equality to ensure that full legislative expression is given to the principle of equal remuneration between men and women for work of equal value, so as to address situations where men and women perform different work, which is nevertheless of equal value.***

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

Egypt

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Articles 1 and 2 of the Convention. Protection against discrimination. Legislation. For a number of years, the Committee has been commenting on the existence of gaps in the legislative protection against discrimination. In particular it noted that the relevant provisions (sections 35, 88 and 120) of the Labour Code of 2003, while providing some protection against discrimination in relation to certain aspects of employment and with respect to certain grounds of discrimination, did not cover access to employment and all terms and conditions of work, and did not appear to address indirect discrimination. Furthermore, domestic workers and public officials were excluded from the application of the Labour Code. In this regard, the Government referred repeatedly to the provisions in the Constitutional Declaration which prohibited discrimination against citizens on the basis of race, origin, language, religion and creed (article 6). The Committee therefore asked the Government to take the necessary measures to amend the legislation in order to ensure effective protection against discrimination in accordance with the Convention. The Committee notes that the Government in its reply merely indicates that a new Constitution was adopted in 2014, article 53 of which provides that "All citizens are equal before the Law, and are equal in rights, freedoms and general duties without discrimination based on religion, belief, sex, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason", thus covering all the grounds set out in *Article 1(1)(a)* of the Convention. Article 53 in fine further stipulates that the State shall take the necessary measures to eliminate all forms of discrimination. The Committee notes that these provisions continue to apply only to citizens. Moreover, it does not appear that they can be directly invoked in civil proceedings by employees in the private sector. Regarding the application of the Convention to non-citizens, the Committee recalls that where constitutional guarantees on equality or non-discrimination are confined to citizens, it is necessary to ensure that non-nationals are covered by non-discrimination and equality provisions in the labour or other relevant legislation. With respect to the protection of domestic workers from discrimination, the Committee notes that the Government does not provide any information in this regard. ***The Committee requests the Government to clarify whether the constitutional provisions concerning equality and non-discrimination can be directly invoked in civil proceedings by employees in the private sector and, if so, to provide examples of any judicial decisions in this regard. Noting that, pursuant to Ministerial Order No. 60 of 2011, a committee has been established to review the provisions of the Labour Code with a view to bringing the labour legislation into line with international labour standards, the Committee encourages the Government to take the opportunity of the legislative review process to ensure that specific legislative protection is provided against direct and indirect discrimination based on at least all the grounds of discrimination enumerated in Article 1(1)(a) of the Convention, covering all aspects of employment and occupation and all workers, including non-citizens and domestic workers.***

Discrimination on the basis of sex. Sexual harassment. For more than a decade, the Committee has been drawing the attention of the Government to the importance of specifically defining and prohibiting sexual harassment in employment and occupation, addressing both quid pro quo and hostile work environment harassment in accordance with the elements set out in its 2002 general observation and the General Survey of 2012 on the fundamental Conventions, paragraph 789. The Committee recalls that sexual harassment is currently prohibited in a number of criminal law provisions, none of which contain a comprehensive definition of sexual harassment taking into account these elements, and the Government until now has not provided any information on the practical application of these provisions. The Committee therefore requested the Government to consider including sexual harassment in the labour legislation, in the context of the ongoing legislative review. The Committee notes from the Government's report that the Penal Code (Act No. 58/1937) has been amended by Act No. 50/2014 to criminalize and define for the first time sexual harassment. In particular, section 306Abis(1) criminalizes "Any person who intercepts another person at a public, private or common place and subjects the latter to sexual or pornographic gestures, allusions or signs, whether this is by using hands, words or through deed in any manner including the use of telecommunications" and provides for sanctions including imprisonment and a fine; sanctions are increased if the act is repeated by the perpetrator by observing or following the victim (section 306Abis(2)). Section 306Bbis of the Penal Code provides that the crime set out in section 306Abis is sexual harassment if the aim of the perpetrator is to obtain a favour of a sexual nature from the victim, and in this case provides for heavier sanctions. Heavier sanctions are also provided for if the offender is in a position of authority. While the Committee welcomes the new provisions to the extent that they address certain forms of sexual harassment, it considers that they still define sexual harassment too narrowly and do not appear to cover the full range of behaviour that may constitute sexual harassment in employment and occupation. Moreover, in order to constitute such harassment, the perpetrator's intention to obtain a favour of a sexual nature from the victim is required, whereas in cases of sexual harassment the focus should be on the fact that the conduct is "unwelcome, unreasonable and offensive to the victim" or "conduct that creates an intimidating, hostile or humiliating working environment for the recipient". The Committee also wishes to recall once again that addressing sexual harassment in employment only through criminal proceedings is normally not sufficient due to the sensitivity of the issue, the higher burden of proof and the fact that criminal law generally focuses on sexual assault or "immoral acts", and not the full range of behaviour that constitutes sexual harassment in employment and occupation (see the 2012 General Survey, paragraphs 789 and 792). ***In light of the current review of the Labour Code and to ensure comprehensive protection against sexual harassment in employment and occupation, the Committee requests the Government to take the necessary measures to include in the Labour Code a definition of sexual harassment that expressly covers both quid prod quo and hostile working environment sexual harassment in employment and occupation taking into account the elements set out in its 2002 general observation, as well as a mechanism that provides remedies for victims and penalties for offenders, whether they are employers, work colleagues or clients. The Committee once again asks the Government to provide information on the practical measures adopted to raise awareness and to prevent sexual harassment in the public and private sectors and on any complaints of sexual harassment in the workplace filed with the labour inspectorate or the judicial authorities. The Committee further requests the Government to include information on the manner in which the criminal provisions cited above have been applied in practice, in particular any convictions concerning sexual harassment in employment and occupation.***

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

Equatorial Guinea

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016 which are of a general nature.

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

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

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

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

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

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

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

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

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

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

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

C103 - Maternity Protection Convention (Revised), 1952 (No. 103)

Observation 2016

The Committee notes with ***deep concern*** that the Government's last report was received in 2004 and that the country is mentioned in a special paragraph of the 2015 report of the Conference Committee on the Application of Standards for its failure for many years to send reports on the application of ratified Conventions. ***The Committee expects that the Government will soon be able to send its report on the application of the Convention and reminds it that the technical assistance of the Office is at its disposal.*** The Committee is therefore bound to repeat its previous comments.

With reference to its comments on the application of *Article 6 of the Convention,* the Committee notes that, like Act No. 8/1992, sections 111 and 112 of Act No. 2/2005 of 9 May 2005 on public servants allow women workers to be dismissed for gross misconduct following the appropriate disciplinary procedure. In previous reports, the Government indicated its intention to amend the legislation so that any misconduct by pregnant workers would give rise to a disciplinary procedure at the end of the period of maternity or postnatal leave. ***The Committee hopes that the Government will take all the necessary measures to establish a formal prohibition on giving a public servant her notice of dismissal during her absence on maternity leave or at such time that the notice would expire during such absence.***

Eritrea

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016 which are of a general nature.

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

The Committee notes the Government's comments on the observations submitted by the International Trade Union Confederation (ITUC) in 2012, which relate to the right to elect trade union representatives in full freedom. As to the ITUC allegations that all unions, including the National Confederation of Eritrean Workers and its affiliates, are kept under close scrutiny by the Government, and that public gatherings of over seven persons are prohibited, the Committee recalls that the rights of trade unions to organize their administration and activities and to hold public meetings and demonstrations are essential aspects of freedom of association. ***The Committee requests the Government to provide further information as to how it ensures the respect of these rights in practice.***

Article 2 of the Convention. Right of workers without distinction whatsoever, to establish and join organizations. In its previous comments, the Committee hoped that the Civil Servants' Proclamation would be adopted shortly so that all civil servants have the right to organize, in accordance with the Convention. The Government once again states that the drafting process of the Proclamation is at the final stage for approval, and that civil servants will have the right to organize under its section 58(1). ***Observing with concern that the Government has been referring to the imminent adoption of the Civil Servants' Proclamation for the last 12 years, the Committee urges the Government to take all necessary measures to expedite the adoption process of the Proclamation so as to grant without further delay the right to organize to all civil servants, in conformity with the Convention. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this regard, if it so wishes.***

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

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

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

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

Articles 1 and 2 of the Convention. Protection against anti-union discrimination and interference. The Committee had hoped that the Government would take the necessary measures without delay to amend the 2001 Labour Proclamation to strengthen the protection against anti-union discrimination. In its last report, the Government again indicates that the Ministry of Labour and Human Welfare has currently engaged in a drafting process to amend section 23 of the Labour Proclamation with a view to broadening the protection by covering all acts of anti-union discrimination and by protecting workers against dismissal linked to trade union membership or activity, the best solution being considered to be reinstatement. ***The Committee requests the Government to expedite the process in order to guarantee in the very near future the protection against anti-union discrimination of both trade union officials and members (it being understood that reinstatement remains the best redress) through adequate compensation both in financial and occupational terms and its extension to recruitment and any other prejudicial acts during the course of employment including dismissal, transfer, relocation or demotion.***

Applicable sanctions in cases of anti-union discrimination or acts of interference. The Committee had previously recalled that the fine of 1,200 Eritrean nakfa (ERN) (approximately US$80), established in section 156 of the Labour Proclamation as a penalty for anti-union discrimination or acts of interference, is not severe enough and requested the Government to provide information on any progress made in amending that provision. The Government reiterates that sections 703 and 721 of the Transitional Penal Code would prevail in the event of repeated violations of the right to organize established in the national legislation, though to date no sentences have been handed down for such violations, and that it is currently involved in the drafting process to amend section 156 of the Labour Proclamation. ***The Committee requests the Government to take necessary measures without delay to provide for sufficiently dissuasive sanctions for anti-union dismissals and other acts of anti-union discrimination as well as acts of interference.***

Articles 1, 2, 4 and 6. Domestic workers. In its previous comments, the Committee had hoped that the new regulation on domestic work would explicitly grant the rights set out in the Convention to domestic workers. The Government again states that domestic workers are not expressly exempted from the definition of "employee" in section 3 of the Labour Proclamation and thus are not prohibited from the right to organize and to collective bargaining; but that the Government will take measures to include the rights guaranteed in the Convention in the forthcoming regulation applicable to domestic employees. ***Recalling that under section 40 of the Labour Proclamation the Minister may by regulation determine the provisions of the Proclamation applicable to domestic employees, the Committee expresses the firm hope that the guarantees enshrined in the Convention will soon be explicitly afforded to domestic workers either by way of a regulation issued under section 40 or by way of the new regulation on domestic employees announced by the Government.***

Article 6. Public sector. The Committee had hoped that the new Civil Service Proclamation would explicitly recognize the rights laid down in the Convention for civil servants in the Central Personnel Administration (CPA) who are not engaged in the administration of the State. The Government again indicates that public servants are split into two categories, those who work in the CPA and those who work in public or semi-public enterprises; that the latter are covered by the Labour Proclamation and have therefore, like other workers, the rights to organize and to bargain collectively. The Government also states that, as regards CPA workers, the draft Civil Service Proclamation has not yet been enacted, and that up to now no collective bargaining has been undertaken between the Government and civil servants. ***The Committee requests the Government to provide specific information on the status of the draft Civil Service Proclamation and to transmit a copy of the draft. It expresses the firm hope that more than 10 years after ratification of the Convention the Government will soon be in a position to report the adoption of the above Proclamation thus ensuring that civil servants not engaged in the administration of the State benefit from the rights enshrined in the Convention, particularly the right to collective bargaining.***

Articles 4 and 6. Collective bargaining in practice. The Committee notes the Government's comments in reply to the 2012 observations of the International Trade Union Confederation (ITUC). ***It once again requests the Government to indicate any measures taken or contemplated to promote the development of collective bargaining in the private and public sectors.***

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

Ethiopia

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations submitted by the International Trade Union Confederation (ITUC), in a communication received on 31 August 2016, which refer to issues pending before this Committee, as well as the Government's comments thereon. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

In its previous comments, the Committee had welcomed the Joint Statement on the Working Visit of the ILO Mission to Ethiopia, which was signed in May 2013 by the Minister of Labour and Social Affairs, on behalf of the Government, and by the Director of the International Labour Standards Department, on behalf of the International Labour Organization, as it represented a significant step towards resolving long-standing issues in line with the provisions of the Convention. The Committee also takes note of the outcome of two ILO missions in the country (March 2015 and September 2016) highlighting the availability of the technical assistance of the Office to address the necessary reforms.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish organizations. Teachers. In its previous comments, the Committee, encouraged by the commitment undertaken by the Government in the Joint Statement firmly expected that the National Teachers' Association (NTA) be promptly and unconditionally registered. Recalling in this respect the conclusions and recommendations of the Committee on Freedom of Association in Case No. 2516 (371st Report, paragraphs 475–481), the Committee notes with ***regret*** that the Government, while reaffirming its readiness to register the NTA, indicated that it could not do so as the latter had not fulfilled the necessary requirements. ***The Committee firmly expects that the Government will finally be able to report progress or related developments in this respect in the near future.***

Civil servants and employees of the state administration. In its previous comments, the Committee, in view of the ongoing comprehensive civil service reform, firmly expected that, while pursuing the reform, the right to organize would first be granted to all civil servants, including teachers in public schools and employees of the state administration, including care workers, judges, prosecutors and managerial workers. ***Noting that the reform has not been achieved yet, the Committee firmly expects that the Government will increase its efforts and take the necessary steps to ensure that the right to organize is granted to all civil servants, including teachers in public schools and employees of the state administration. The Government is urged to continue tripartite discussions in this regard.***

Articles 2 and 3. Amendments to the 2003 Labour Proclamation. In its previous comments, the Committee had requested the Government to amend the following sections of the 2003 Labour Proclamation: section 3 (need to guarantee the right to organize of several categories of workers excluded from the scope of application of the Proclamation); sections 136(2), 143(2), 158(3) and 160(1) (restrictions to the right of organizations freely to organize their activities and formulate their programmes); and section 120(1)(c) (need to ensure that the cancellation of the registration of an organization is not based on provisions of the Labour Proclamation identified as restricting the right to organize). Referring to its previous comments and the Government's commitment to expedite the process for the submission of the relevant amendments to Parliament, the Committee notes with ***regret*** that the information before it does not show progress in this respect, with the exception of the proposal under consideration to extend section 3 of the Labour Proclamation to domestic workers and managerial employees. ***The Committee firmly expects that the necessary measures will be taken by the Government without delay, and in full consultation with the social partners, to amend the abovementioned provisions of the Labour Proclamation in line with the Convention. It requests the Government to provide detailed information in its next report on any progress made in this respect.***

Recalling that the technical assistance of the Office is available, the Committee firmly expects that the Government will make every effort to take the necessary action so as to bring the legislation and practice into full conformity with the provisions of the Convention.

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes the observations submitted by the International Trade Union Confederation (ITUC), in a communication received on 31 August 2016, which refer to issues pending before this Committee together with allegations of anti-union discrimination, as well as the Government's comments thereon.

In its previous comments, the Committee had welcomed the *Joint Statement on the Working Visit of the ILO Mission to Ethiopia,* which was signed in May 2013 by the Minister of Labour and Social Affairs, on behalf of the Government, and by the Director of the International Labour Standards Department, on behalf of the International Labour Organization, as it represented a significant step towards resolving long-standing issues in line with the provisions of the Convention. The Committee also takes note of the outcome of two ILO missions in the country (March 2015 and September 2016) highlighting the availability of the technical assistance of the Office to address the necessary reforms.

Articles 1–4 of the Convention. Labour Proclamation (2003). In its previous comments, the Committee trusted that the necessary measures would be taken without delay, and in full consultation with the social partners, to amend the Proclamation as follows: section 3 (need to ensure that several categories of workers excluded from the scope of application of the Proclamation enjoy the rights afforded by the Convention); need for specific provisions coupled with effective and sufficiently dissuasive sanctions providing for protection of organizations of employers and workers against acts of interference by each other's agents or members in their establishment, functioning or administration; and section 130(6) (need to ensure that it is up to the parties to decide on the moment when the collective agreement becomes inapplicable after the date of expiry). Referring to its previous comments and the Government's commitment to expedite the process for the submission of the relevant amendments to Parliament, the Committee notes with ***regret*** that the information before it does not show progress in this respect. ***The Committee firmly expects that the necessary measures will be taken by the Government without delay, and in full consultation with the social partners, to amend the Labour Proclamation in line with the Convention. It requests the Government to provide detailed information in its next report on any progress made in this respect.***

Regulation concerning employment relations established by religious or charity organizations. The Committee takes note of the adoption of the Council of Ministers Regulation (No. 341/2015) of March 2015 on employment relations established by religious or charity organizations. ***The Committee requests the Government to transmit a complete version of the document.***

Article 6. Public servants not engaged in the administration of the State. In its previous comments, the Committee, in view of the ongoing comprehensive civil service reform, firmly expected that, while pursuing the reform, the right to bargain collectively would be granted to public servants not engaged in the administration of the State, including teachers in public schools. The Committee notes that the Government merely reiterates its commitment to address the issue in the ongoing civil service reform. ***Noting that the reform has not been achieved yet, the Committee firmly expects that the Government will increase its efforts and take the necessary steps to ensure that the right to bargain collectively is granted to public servants not engaged in the administration of the State – including teachers in public schools.***

Recalling that it may continue to avail itself of the technical assistance of the Office, the Committee firmly expects that the Government will make every effort to take the necessary action so that the legislation and practice is brought into full conformity with the provisions of the Convention.

Gabon

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations made by the International Organisation of Employers (IOE) in a communication received on 1 September 2015, which are of a general nature.

In its previous comments, further to the observations of the International Trade Union Confederation (ITUC) relating to restrictions on the right to strike in the public sector on the recurrently cited grounds of ensuring public safety, the Committee requested the Government to provide information on the number of strikes called in the public sector, the sectors concerned and the number of strikes prohibited on the grounds of a possible disruption of public order. ***In the absence of a reply, the Committee reiterates its request and trusts that the Government will take, without delay, all the necessary measures to provide the information requested.***

Moreover, further to the observations previously received from Education International (EI), which denounced the adoption of various regulations making the exercise of union activities in the education sector increasingly difficult, the Committee requested the Government to specify the measures taken in the education sector to ensure that trade unions have access to educational establishments so that they can perform their representation functions and defend their members' interests. ***In the absence of a reply, the Committee reiterates its request and trusts that the Government will take, without delay, all the necessary measures to provide the information requested.***

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

C124 - Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)

Observation 2016

Article 2(1) of the Convention. Medical examination of persons under 21 years of age prior to underground work in mines. In its previous comments, the Committee noted that under section 207 of the Labour Code, the initial medical examination prior to recruitment was only compulsory for children under 18 years of age and not, as envisaged by the Convention, for persons under 21 years of age. The Government gave an undertaking to take into account the requirement to make the initial medical examination prior to recruitment compulsory for workers under 21 years of age in the framework of the adoption of a draft Decree to update Order No. 3773 of 25 March 1954 on the organization and operation of medical services. It also noted that under section 178 of the Labour Code, as amended by Ordinance No. 018/PR/2010 of 25 February 2010, labour inspectors may require a medical examination for fitness for employment of children and young persons up to the age of 18 years and up to the age of 21 years for types of work which involve high health risks. The Committee nevertheless observed that medical examination prior to recruitment for young persons of under 21 years of age is still not compulsory. The Committee notes the Government's indication in its report that section 178 of the Labour Code was amended by Ordinance No. 018/PR/2010 of 25 February 2010. Nevertheless, the Committee notes that the new section 178, which authorizes labour inspectors to require a medical examination until 18 years of age, or until 21 years for types of work that involve high health risks, still does not make medical examinations prior to recruitment compulsory. The Committee recalls that *Article 2(1)* of the Convention provides that a thorough medical examination for fitness of employment shall be required for work underground in mines for persons under 21 years of age. ***The Committee therefore requests the Government to take the necessary measures to give full effect to this provision of the Convention, and to provide information on any new developments in this regard.***

Article 3(2). X-ray film of the lungs. The Committee has been emphasizing for a number of years that the national legislation in Gabon does not contain any provision requiring an X-ray film of the lungs on the occasion of the initial medical examination and it expressed the hope that the Government would envisage the inclusion in the national legislation of a provision to this effect. The Committee has subsequently noted that the draft Decree to update Order No. 3773 of 25 March 1954 on the organization and operation of medical services would take into account the requirement of an X-ray film of the lungs during the initial medical examination and also, if considered necessary from a medical point of view, during re examinations.

The Committee notes the Government's indication that there have been no further developments, but that it reiterates its commitment to taking measures to this effect. ***Recalling that it has been raising this matter for nearly 30 years, the Committee urges the Government to take the necessary measures to ensure that an X-ray film of the lungs is required during the initial medical examination of any person under 21 years of age with a view to their employment or work in underground mines and, if considered necessary from a medical point of view, during subsequent re-examinations. In this respect, it expresses the firm hope that the draft Decree will be adopted in the near future and requests the Government to continue providing information in this respect.***

Article 4(4) and (5). Records of persons who are employed or work underground. In its previous comments, the Committee noted General Order No. 3018 of 29 September 1953, the provisions of which do not meet all the requirements of *Article 4(4)* and *(5)* of the Convention. However, the Government indicated that it would introduce provisions in conformity with *Article 4* of the Convention when the time came to update General Order No. 3018.

The Committee notes that, according to the Government's report, General Order No. 3018 has not yet been amended, but that the Government is working to bring its provisions into conformity with the Convention. ***The Committee therefore requests the Government to take the necessary measures in the near future to bring General Order No. 3018 of 29 September 1953 into conformity with the Convention.***

Article 5. General policy for the implementation of the Convention. The Committee previously noted that section 251 of the Labour Code provides for the establishment of an advisory committee on occupational safety and health, the composition and operation of which are determined by Order No. 000808/MTRHFP/SG/IGHMT of the Minister of Labour. In this respect, the Committee noted that the technical advisory committee on occupational safety and health had not yet been established due to a problem relating to the representativity of trade unions.

The Committee notes the Government's indication that the problem relating to the representativity of trade unions described in the previous report persists, due to the absence of elections, and that it has therefore not yet been possible in practice to establish the technical advisory committee. ***The Committee requests the Government to continue providing information on any progress made in this respect.***

Gabon

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

Article 2(1) of the Convention. Scope of application and minimum age for admission to employment or work. In its previous comments, the Committee noted that, under the terms of section 177 of the Labour Code of Gabon of 1994, as amended by Ordinance No. 018/PR/2010 of 25 February 2010 (the Labour Code), children may not be employed in any enterprise before the age of 16 years. The Committee also observed that, under the terms of section 1, the Labour Code only governs work relations between workers and employers, and between employers or their representatives and apprentices and trainees placed under their authority. It therefore appears that the Labour Code and the provisions respecting the minimum age for admission to employment or work do not apply to work performed outside a formal labour relationship, such as in the case of children working on their own account or those working in the informal economy.

In this regard, the Committee notes the Government's indication that there is no protection for children who work on their own account or in the informal economy, but that self-employed child workers are covered by the National Health Insurance and Social Guarantee Fund as economically disadvantaged persons. The Committee reminds the Government that the Convention applies to all sectors of economic activity and covers all forms of employment and work. ***The Committee once again requests that the Government take the necessary legislative measures to ensure that all children under 16 years of age engaged in economic activities without an employment contract, and particularly children who work in the informal economy, benefit from the protection afforded by the Convention. Please provide information on the extent of the protection provided by the National Health Insurance and Social Guarantee Fund for self-employed child workers.***

Article 2(3). Age of completion of compulsory schooling. The Committee notes that section 2 of Act No. 21/2011 determining the general education, training and research policy provides that school shall be free and compulsory for all children between the ages of 6 and 16 years, which corresponds to the minimum age for admission to employment or work. The Committee also notes the improvements over recent years in terms of the increase in the net school enrolment rate and the parity between genders in primary education. However, the Committee notes that the rate of children repeating classes and dropping out of school is undermining the progress achieved, and that the school enrolment rate of 48 per cent in secondary school is still low.

The Committee notes that, according to the UNICEF publication *The State of the World's Children 2016: A fair chance for every child,* the net attendance ratio at secondary school for 2009–14 was 57 per cent for girls and 48 per cent for boys. Despite an increase in the net school attendance ratio, the Committee observes that a considerable number of children who have not yet reached the minimum age for admission to employment do not attend or have dropped out of school. ***The Committee therefore requests that the Government take measures to ensure that all children under 16 years of age attend school, in accordance with Act No. 21/2011 determining the general education, training and research policy, with a view to preventing them from being engaged in work, particularly on their own account and in the informal sector. The Committee requests that the Government provide information on the progress achieved in this respect and on the results obtained.***

Article 3(1) and (2). Minimum age for admission to hazardous types of work and the determination of such types of work. The Committee noted previously that section 177 of the Labour Code provides that children under 18 years of age may not be employed in types of work considered to constitute the worst forms of child labour, and particularly in work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons. The Committee also noted that the list of types of work and the categories of enterprises prohibited for young persons, and the age limit to which this prohibition applies, is determined by Decree No. 275 of 5 November 1962, but that the list of hazardous types of work was being reviewed. The Committee notes the Government's indication that the revision of the list will be completed in the coming months. ***Noting with concern that the Government has been indicating since 2012 that the revision of the list of hazardous types of work is being carried out, the Committee requests that the Government take the necessary measures to ensure that the list of hazardous types of work prohibited for children under 18 years of age is revised as soon as possible and to provide a copy of the new list once it has been adopted.***

Article 9(1). Penalties. The Committee recalls that section 195 of Ordinance No. 018/PR/2010 of 25 February 2010 amending certain provisions of the Labour Code of Gabon provides that persons who violate the provisions of section 177, respecting the minimum age for admission to employment or work, shall be liable to a fine of between 30,000 and 300,000 Central African francs (CFA) and, in the case of repeated violations, a fine of CFA60,000 francs and imprisonment for from two to six months, or only one of these penalties. Persons in violation of section 177(3), respecting the worst forms of child labour, and particularly hazardous forms of work, shall be liable to a fine of CFA5 million and imprisonment for five years without suspension. In the event of repeated offences, each of these penalties shall be doubled.

The Committee notes the Government's indication that no penalties have yet been imposed in this regard. It also notes that, according to the concluding observations of the Committee on the Rights of the Child of July 2016, a high number of children work in sand quarries and restaurants *("gargottes")* and on taxis and buses, but that these violations are poorly identified and the perpetrators are not penalized (CRC/C/GAB/CO/2, paragraph 62). The Committee notes with ***concern*** the absence of convictions and recalls that, while the adoption of national legislation is essential, even the best legislation only has value when it is applied effectively (see the General Survey on the fundamental Conventions, 2012, paragraph 410). ***The Committee therefore requests that the Government take the necessary measures to punish violations of section 177(3) of the Labour Code. Please provide information on the application of these penalties in practice in the event of violations, with an indication of the number and nature of the violations reported and the penalties imposed and, to the extent possible, the information should be disaggregated by age and sex.***

Labour inspection. The Committee noted previously that, under the terms of section 235 of the Labour Code, labour inspectors are responsible for reporting violations of the provisions of laws and regulations respecting labour, employment, occupational safety and health and social security. Furthermore, under section 178 of the Labour Code, labour inspectors may order the examination by an approved medical practitioner of children and young persons up to the age of 18 years with a view to verifying whether the work entrusted to them exceeds their strength. The Committee noted that no convictions for violations of the provisions giving effect to the Convention have been handed down by courts of law.

The Committee notes the Government's indication that the labour inspection services do not have the necessary resources to investigate child labour, and that it does not therefore have statistics available on the subject. The Committee also notes that, according to the information provided by the Government on the application of the Labour Administration Convention, 1978 (No. 150), seminars and training courses have been provided with ILO technical cooperation, and have had a beneficial impact by enabling labour inspectors to increase their knowledge of the means available to deal with recurrent issues, including child labour. ***The Committee urges the Government to take the necessary measures in the near future to reinforce the capacity of labour inspectors so that they are able to detect and take action in cases of work by children under the age of 16 years, particularly in the informal economy. It once again requests that the Government provide information on the implementation in practice of inspections by labour inspectors with a view to monitoring child labour. In this respect, it requests that the Government provide information on the number of violations reported and, where possible, to provide extracts from the reports of labour inspectors.***

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

Gabon

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Article 3(a) of the Convention. Sale and trafficking of children and court decisions. In its previous comments, the Committee noted that a number of children, particularly girls, are victims of internal and cross-border trafficking for the purposes of work as domestic servants or in the country's markets. Children from Benin, Burkina Faso, Cameroon, Guinea, Niger, Nigeria and Togo are victims of trafficking to Gabon. The Committee noted that, despite the conformity of the national legislation on the sale and trafficking of children with the Convention, and even though several institutions have an operational mandate in this field, the legislation is still not enforced and coordination is weak. It also noted that 11 court cases were in progress, most of which had been referred to the Office of the Public Prosecutor. The Committee further noted that a police operation had been carried out from 6 to 15 December 2010 with the collaboration of Interpol, during which 38 presumed traffickers were arrested. The police had also arrested two men of foreign nationality presumed to have engaged in trafficking in children. In January 2012, a woman of foreign nationality was also arrested for the ill-treatment and forced labour of six children. The Government indicated that prosecutions had been initiated in relation to all of the arrests.

In its report, the Government indicates that it is not in a position to provide information on the prosecutions, as no sentences have yet been handed down. The Committee notes that, in its concluding observations of July 2016, the Committee on the Rights of the Child expressed concern at the failure of the judiciary to prosecute suspects and sanction perpetrators of child trafficking, even though 700 children had been identified as victims of trafficking and repatriated to their countries of origin (CRC/C/GAB/CO/2, paragraph 66). The Committee on the Rights of the Child, in its concluding observations of June 2016 on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, also expressed concern at the fact that criminal courts only meet twice a year and that there is no requirement to prioritize cases affecting children (CRC/C/OPSC/GAB/CO/1, paragraph 37). The Committee notes with ***concern*** that prosecutions of the presumed perpetrators of trafficking in children have still not been taken up by the national courts and that impunity in relation to this worst form of child labour therefore remains a serious menace in the country. ***The Committee once again urges the Government to take the necessary measures to ensure the in-depth investigation and robust prosecution of persons who engage in the sale and trafficking of children under 18 years of age, in accordance with the national legislation in force, and to ensure the expeditious determination of trafficking cases by the courts. In this regard, it once again requests the Government to provide specific information on the application of the provisions respecting this worst form of child labour, including statistics on the number of convictions and penalties imposed, and copies of the court rulings in the cases referred to the Office of the Public Prosecutor.***

Article 3. All forms of slavery or practices similar to slavery. Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances. In its previous comments, the Committee noted that no provision of the Code of Audiovisual, Cinematographic and Written Communication prohibits the use, procuring or offering of a child for the production of pornography or for pornographic performances. In this respect, the Government indicated that, in the context of the current revision of the Code of Audiovisual, Cinematographic and Written Communication, it is planned to prohibit and penalize the phenomenon of child pornography.

The Committee notes the Government's indication in its report that it is making efforts to adopt regulatory provisions that take these comments into account. The Committee recalls that the use, procuring or offering of a child for the production of pornography is one of the worst forms of child labour and that, under the terms of *Article 1* of the Convention, immediate and effective measures shall be taken to secure the prohibition and elimination of the worst forms of child labour. ***The Committee, therefore, urges the Government to take the necessary measures to ensure that the Code of Audiovisual, Cinematographic and Written Communication is revised without delay so as to prohibit the use, procuring or offering of a child under 18 years of age for the production of pornography or for pornographic performances, and requests it to provide information on the progress achieved in this regard.***

Clause (c). Use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs. In its previous comments, the Committee noted that section 177 of the Labour Code, which provides that children under 18 years of age may not be employed in illicit types of work, which are considered to be one of the worst forms of child labour, only prohibits work which, by its nature or the circumstance in which it is performed, is likely to jeopardize the health, safety or morals of children, but that it does not refer explicitly to the use, procuring or offering of a child for illicit activities. It also noted that sections 278bis to 278bis4 of the Penal Code, in conjunction with section 20 of Act No. 9/2004 of 21 September 2004 on measures to prevent and combat trafficking in children in Gabon, provide for the repression of any act involving exploitation of the work of children. These provisions relate specifically to the trafficking of children for their exploitation, but do not explicitly prohibit the use, procuring or offering of a child for illicit activities. ***Noting the absence of information on this subject, the Committee once again urges the Government to take the necessary measures as a matter of urgency to ensure that the use, procuring or offering of a child under 18 years of age for illicit activities, in particular for the production and trafficking of drugs, is explicitly prohibited by the national legislation. It requests the Government to provide information on the progress achieved in this regard.***

Article 4(1) and (3) of the Convention. Hazardous types of work and the determination and revision of such types of work. ***With regard to the revision of the list of hazardous types of work prohibited for children under 18 years of age, in conformity with Article 4(3) of the Convention, the Committee refers to its detailed comments under the Minimum Age Convention, 1973 (No. 138).***

Article 5. Monitoring mechanisms. 1. *Council to Prevent and Combat the Trafficking of Children and the Monitoring Committee.* The Committee previously noted that the Council to Prevent and Combat the Trafficking of Children is an administrative authority under the responsibility of the Ministry of Human Rights. In practice, the monitoring of the phenomenon of trafficking is ensured by a Monitoring Committee and watchdog committees. The Monitoring Committee is the national focal point for action to combat trafficking in children and is competent to assist the Council in its functions and for the implementation of its decisions. The watchdog committees are responsible for monitoring and combating trafficking in children for their exploitation within the country. The Government indicated that, in the context of the "Bana" operation in December 2010, around 20 children were identified and removed from trafficking as a result of the action of watchdog committees. The Committee however noted that, in her preliminary conclusions on her mission to Gabon, the Special Rapporteur on trafficking in persons observed that the coordination of action against trafficking remains weak, particularly among public institutions and between the central administration and local communities.

The Government indicates that it is making efforts to prosecute those responsible for trafficking and to raise the awareness of the population. The Committee also notes that, according to the 2015 UNICEF annual report, the Monitoring Committee, with the technical and financial support of UNICEF Gabon, has been able to establish two watchdog committees in the last two provinces that did not have any (Ogooué Ivindo and Ogooué Lolo). However, the Committee notes that, in her May 2013 report, the Special Rapporteur on trafficking in persons noted with concern that the Monitoring Committee is not adequate to combat trafficking as it lacks a secretariat, a regular budget and the permanent staff which would be necessary to achieve the desired level of effectiveness (A/HRC/23/48/Add.2, paragraph 44). ***The Committee, therefore, urges the Government to intensify its efforts to strengthen the capacity of watchdog committees and their coordination with the Council to Prevent and Combat the Trafficking of Children and the Monitoring Committee with a view to ensuring the enforcement of the national legislation against trafficking in children for sexual or economic exploitation. It requests the Government to provide information on the progress achieved in this regard. It also requests the Government to continue providing information on the number of child victims of trafficking identified and protected by watchdog committees.***

2. *Labour inspection.* The Committee noted previously that, in its conclusions, the Conference Committee on the Application of Standards called on the Government in June 2007 to strengthen the authority of the labour inspection services to enforce the law and to increase their human and financial resources. The Committee on the Application of Standards also requested the Government to ensure that regular inspections are carried out by the labour inspectorate. In this regard, the Committee noted that, under section 178 of the Labour Code, as amended by Ordinance No. 018/PR/2010 of 25 February 2010, labour inspectors are required to report any evidence of the exploitation of the labour of children.

The Committee notes the Government's indication that no violations have been reported by the labour inspectorate involving children under 18 years of age.

Gabon

The Committee recalls that the absence of cases identified by labour inspectors often points to the lack of adequate resources and that it is indispensable to reinforce the capacity of labour inspectors to identify children engaged in the worst forms of child labour. ***The Committee therefore requests the Government to take measures to reinforce the capacities of the labour inspectorate to ensure that regular inspections are carried out, particularly in the informal economy. Please provide statistics on the number and nature of violations reported by the labour inspectorate involving children under 18 years of age engaged in work that constitutes the worst forms of child labour.***

Application of the Convention in practice. In its previous comments, the Committee noted that the lack of recent statistical data on trafficking in children in the country had been emphasized during the discussion held in the Committee on the Application of Standards. In this context, the Government representative had indicated that the Government would carry out an analysis of the national situation in relation to trafficking in children in Gabon and that a mapping of trafficking routes and areas in which forced labour involving children occurs would be carried out as soon as the necessary resources allowed. The Committee noted that Decree No. 0191/PR/MFAS establishing a Child Protection Indicators Matrix (MIPE) was adopted on 22 May 2012 to create a guidance tool intended to help the Government follow trends in issues related to the rights of the child. This tool, which is one of the means used by the National Observatory of the Rights of the Child (ONDE), established by Decree No. 0252/PR/MFAS of 19 June 2012 organizing the implementation scheme for social assistance and family protection is intended to ensure the availability on a permanent basis in Gabon of a body of reliable national data to determine the incidence, forms, trends and manifestations of trafficking in persons.

Recalling that the Government has been referring to the study on the situation of trafficking in children in Gabon since 2008, the Committee notes with ***regret*** that it has not provided any information on the adoption of this study. It also notes that the Committee on the Rights of the Child in relation to the Optional Protocol on the sale of children, child prostitution and child pornography expressed concern at the lack of data on the number of reported cases of offences, prosecutions and convictions. ***The Committee once again urges the Government to take the necessary measures to ensure that the study on the situation of trafficking in children in Gabon is carried out in the very near future, and requests the Government to provide information on the progress achieved in this regard. The Committee also requests the Government to provide information on the activities of the ONDE and on the statistics gathered by the ONDE through the MIPE on children under 18 years of age engaged in the worst forms of child labour.***

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

Gambia

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

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

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

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

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

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

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

Article 1(1)(a) of the Convention. Discrimination in employment and occupation. Legislation. The Committee previously pointed out that the provisions of the Constitution regarding discrimination did not include any reference to the prohibition of direct and indirect discrimination in employment and occupation and only concerned discriminatory treatment by public officials (section 33(3)). It also noted that the Labour Act 2007 neither defines nor prohibits discrimination in employment and occupation on the basis of any of the grounds enumerated in the Convention, except in the case of dismissal and disciplinary action (section 83(2)). The Committee notes that the Government provides no response to its request regarding the need to amend the legislation. The Committee recalls once again that, although general constitutional provisions regarding non-discrimination are important, they are generally not sufficient to address specific cases of discrimination in employment and occupation, and comprehensive anti discrimination legislation is generally needed to ensure the effective application of the Convention, based on at least all the grounds of discrimination listed in *Article 1(1)(a)* and in all areas of employment and occupation. ***The Committee asks the Government to take steps in order to include legislative protection against direct and indirect discrimination at all stages of employment and occupation based on, as a minimum, all of the grounds enumerated in the Convention, namely, race, colour, sex, religion, political opinion, national extraction and social origin. The Committee also asks the Government to include in legislation provisions establishing dissuasive sanctions and appropriate remedies in cases of discrimination. Please provide specific information on progress made in this regard.***

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

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

Ghana

C094 - Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

Observation 2016

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

Articles 1 and 2 of the Convention. Scope and purpose of the Convention. The Committee notes the Government's report, in which the Government makes renewed reference to the provisions laid down in the Labour Act 2003 regarding occupational safety and health, minimum wage fixing and maximum working hours. It once again notes that these provisions are not strictly relevant to the subject matter of the Convention which deals with labour clauses in public contracts as set out in *Article 1* of the Convention, and that they are not sufficient to give effect to *Article 2* of the Convention which explicitly requires the insertion of labour clauses ensuring favourable wages and other working conditions to the workers concerned. Furthermore, the Committee had previously noted that the general principles set out in the Labour Act cannot automatically guarantee to the workers concerned labour conditions which are not less favourable than those established for work of the same character in the same area by collective agreement, arbitration award or national laws or regulations. The application of the general labour legislation is not enough in itself to ensure the application of the Convention, inasmuch as the minimum standards fixed by law are often improved upon by means of collective agreement or otherwise. Moreover, it had previously noted that the legislation to which the Government refers in most cases lays down minimum standards and does not necessarily reflect the actual working conditions of workers.

With reference to its previous comment concerning labour clearance certificates, which individuals or firms are required to obtain before they are allowed to tender for public contracts, the Committee notes the Government's indication that it is taking measures to strengthen this procedure. In this respect, the Committee wishes to recall that the essential purpose of the insertion of labour clauses goes beyond the aims of simple certification, as its purpose is to eliminate the negative effects of competitive bidding on the workers' labour conditions.

Noting that no substantial progress was made to bring national legislation into conformity with the requirements of the Convention, the Committee once again strongly urges the Government to take all necessary measures, if necessary with technical assistance from the Office, to implement the Convention in law and practice and to supply information in this regard.

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

Guinea

C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

Observation 2016

The Committee notes that the Government's reports have not been received. In its previous comments, the Committee raised several matters regarding the application of these Conventions. It notes the adoption of Act No. L/2014/072/CNT of 10 January 2014, issuing the Labour Code, several sections of which, especially within Title IV of Book 2, entitled "Wages and other elements of the remuneration" relate to the application of these Conventions. For example, section 241.7 provides that all employees have the right to a guaranteed inter-occupational minimum wage (SMIG) and that the guaranteed minimum rate for an hour of work shall be determined by decree, after the Advisory Committee on Labour and Social Legislation has issued an opinion. Moreover, several other sections within the said Title contain provisions on the protection of wages. ***The Committee therefore proposes to examine in detail the application of Conventions Nos 26, 95 and 99 at its next session and hopes that it will have before it the Government's detailed reports on that subject. It also requests the Government to provide information on any decree adopted under section 241.7 of the Labour Code.***

C094 - Labour Clauses (Public Contracts) Convention, 1949 (No. 94)

Observation 2016

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

The Committee takes note of the adoption of the new Labour Code (Act No. L/2014/072/CNT of 10 January 2014). ***The Committee requests the Government to provide all implementing texts of the Code in view of a complete examination of the new legislation.***

Article 2 of the Convention. Insertion of labour clauses in public contracts. The Committee notes that the Government's last report contained no reply to its previous comments, but essentially reproduced information already submitted in earlier reports which the Committee had considered to be strictly irrelevant to the scope and content of the Convention. The Committee is once again led to conclude that for the last 40 years there has been practically no progress in implementing the provisions of the Convention in either law or practice. ***Under the circumstances, the Committee hopes that the Government will make a sincere effort to maintain a meaningful dialogue with the ILO supervisory bodies and once more urges the Government to take all necessary measures without further delay in order to bring its national law and practice into conformity with the clear terms and objectives of the Convention.***

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

C095 - Protection of Wages Convention, 1949 (No. 95)

Observation 2016

The Committee notes that the Government's reports have not been received. In its previous comments, the Committee raised several matters regarding the application of these Conventions. It notes the adoption of Act No. L/2014/072/CNT of 10 January 2014, issuing the Labour Code, several sections of which, especially within Title IV of Book 2, entitled "Wages and other elements of the remuneration" relate to the application of these Conventions. For example, section 241.7 provides that all employees have the right to a guaranteed inter-occupational minimum wage (SMIG) and that the guaranteed minimum rate for an hour of work shall be determined by decree, after the Advisory Committee on Labour and Social Legislation has issued an opinion. Moreover, several other sections within the said Title contain provisions on the protection of wages. ***The Committee therefore proposes to examine in detail the application of Conventions Nos 26, 95 and 99 at its next session and hopes that it will have before it the Government's detailed reports on that subject. It also requests the Government to provide information on any decree adopted under section 241.7 of the Labour Code.***

C099 - Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)

Observation 2016

The Committee notes that the Government's reports have not been received. In its previous comments, the Committee raised several matters regarding the application of these Conventions. It notes the adoption of Act No. L/2014/072/CNT of 10 January 2014, issuing the Labour Code, several sections of which, especially within Title IV of Book 2, entitled "Wages and other elements of the remuneration" relate to the application of these Conventions. For example, section 241.7 provides that all employees have the right to a guaranteed inter-occupational minimum wage (SMIG) and that the guaranteed minimum rate for an hour of work shall be determined by decree, after the Advisory Committee on Labour and Social Legislation has issued an opinion. Moreover, several other sections within the said Title contain provisions on the protection of wages. ***The Committee therefore proposes to examine in detail the application of Conventions Nos 26, 95 and 99 at its next session and hopes that it will have before it the Government's detailed reports on that subject. It also requests the Government to provide information on any decree adopted under section 241.7 of the Labour Code.***

Guinea

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

The Committee recalls the adoption on 10 January 2014 of Act No. L/2014/072/CNT issuing the Labour Code, to which the Government refers in its brief report.

Article 1(1) of the Convention. Prohibited grounds of discrimination. Legislative developments. Private sector. The Committee notes with ***interest*** that section 5 of the new Labour Code prohibits discrimination "in all its forms" and that this prohibition covers not only the seven grounds of discrimination enumerated in *Article 1(1)(a)* of the Convention, but also additional grounds of discrimination, as envisaged in *Article 1(1)(b*), namely: age; membership or not of a trade union; trade union activities; disability; and "real or supposed status of a person living with HIV". ***The Committee requests the Government to provide information on the effect given in practice to section 5 of the Labour Code, including any decisions by the labour inspectorate or the courts relating to discrimination in employment and occupation.***

Public service. The Committee notes that the Labour Code of 2014, in the same way as the former Labour Code of 1988, excludes public officials from its scope of application (section 2). The Committee recalls that it has been drawing the Government's attention for over 25 years to the fact that, in view of this exclusion and the restrictive provisions of section 20 of Ordinance No. 017/PRG/SGG of 23 February 1987 establishing the general principles of the public service, public officials still do not benefit from protection in law against discrimination in employment and occupation, including during recruitment, on the basis of race, colour, national extraction, political opinion and social origin. In its previous comment, the Committee also emphasized that section 11 of Act No. L/2001/028/AN of 31 December 2001 issuing the general conditions of service of public officials, to which the Government referred in its previous report, does not cover all aspects of discrimination based on race, colour or national extraction, and particularly discrimination based on the social origin of a person. ***In order to ensure that public officials and applicants for employment in the public service are afforded protection against any direct or indirect discrimination on the basis of at least all of the grounds of discrimination covered by Article 1(1)(a) of the Convention, notably race, colour, sex, religion, political opinion, national extraction and social origin, the Committee once again requests the Government to take the necessary measures to amend section 11 of Act No. L/2001/028/AN issuing the general conditions of service of public officials and section 20 of Ordinance No. 017/PRG/SGG establishing the general principles of the public service, and to provide information on any measures taken for this purpose.***

Discrimination on the basis of sex. Sexual harassment. The Committee notes with ***interest*** the inclusion in the 2014 Labour Code (sections 9 and 10) of provisions on quid pro quo sexual harassment and sexual harassment resulting from an intimidating, hostile or humiliating working environment (definition, protection of victims and witnesses against penalties and dismissal, reversal of the burden of proof, etc.). The Committee also welcomes the inclusion of provisions defining moral harassment at work (section 8) and violence at work (section 7). ***The Committee requests the Government to provide information on the effect given in practice to sections 9 and 10 of the Labour Code, with an indication of whether prosecutions have been initiated under these provisions and, where appropriate, the penalties imposed.***

Article 1(2). Exceptions. Inherent requirements of a particular job. The Committee notes with ***interest*** that section 5 of the Labour Code provides that exceptions from the principle of non-discrimination shall be based on the inherent requirements of a particular job, as set out *Article 1(2)* of the Convention. ***Recalling that this exception must be interpreted in a restrictive manner so as to avoid any undue restriction on the protection afforded by the Convention, the Committee requests the Government to provide information on the application of the provisions of section 5 by the labour inspectorate and the courts.***

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

C115 - Radiation Protection Convention, 1960 (No. 115)

Observation 2016

General observation of 2015. ***The Committee wishes to draw the Government's attention to its general observation of 2015 relating to the present Convention, and particularly to the request for information in paragraph 30.***

Article 1 of the Convention. Legislation and other appropriate measures. Article 2. Scope of application. Article 3(1) and (2). Appropriate steps to ensure effective protection of workers against ionizing radiations. Articles 6 and 7. Maximum permissible doses of ionizing radiations in the light of current knowledge. The Committee previously observed that the Government had been expressing the intention for many years of adopting regulations to protect workers against ionizing radiation, but had not taken measures to that end. The Committee notes the indication in the Government's report that, under section 231.4 of the Labour Code of 2014, orders adopted by the Minister of Labour establish the general measures for ensuring worker protection and health which are applicable to all workplaces, especially regarding radiation. The Government explains that the initial drafts of the orders will be updated and submitted to the next session of the Advisory Committee on Labour and Social Legislation. The Government adds that all necessary steps will be taken to give effect to the Convention.

The Committee notes the Government's reference to the previous standards and recommendations of the International Atomic Energy Agency (IAEA) and the International Commission on Radiological Protection (ICRP), which are no longer up to date. The Committee emphasizes that the new recommendations and standards in force to be taken into account for the application of the Convention are the ICRP Recommendations of 2007, the ICRP Statement of 2012 on Tissue Reactions/Early and Late Effects of Radiation in Normal Tissues and Organs: Threshold Doses for Tissue Reactions in a Radiation Protection Contex, and the IAEA International Basic Safety Standards of 2014, which are reflected in the Committee's general observation of 2015. The Committee draws the Government's attention in this regard to paragraphs 31–37 of the general observation concerning the recommendations in force on dose limits, according to categories of workers, and the limitation of occupational exposure during an emergency. ***The Committee hopes that the Government will take the necessary steps to adopt orders in the very near future to give effect to the provisions of the Convention, in the light of the general observation of 2015, and requests to provide information in this regard.***

Guinea

C118 - Equality of Treatment (Social Security) Convention, 1962 (No. 118)

Observation 2016

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

Article 5 of the Convention. Payment of benefits in the case of residence abroad. Referring to its previous comments, the Committee notes with ***interest*** the conclusion in 2012 of the Economic Community of West African States (ECOWAS) General Convention on Social Security, which aims in particular to enable migrant workers who have worked in one of the 15 ECOWAS member States to exercise their right to social security in their country of origin through the coordination of national social security systems. ***However, since Cabo Verde is the only other ECOWAS member State that has ratified Convention No. 118, the Committee requests the Government once again to indicate whether, as it understands from its reading of section 91 of the Social Security Code, nationals of any State that has accepted the obligations of the Convention for the corresponding branch should in principle be able to claim payment of their benefits in the case of residence abroad. If so, the Committee requests the Government to indicate whether a procedure for the transfer of benefits abroad has been established by the National Social Security Fund to meet any requests for the transfer of benefits abroad. In addition, the Committee requests the Government to clarify whether any Guinean nationals transferring their residence abroad would also be entitled to have their benefits transferred abroad, in accordance with the principle of equal treatment established under Article 5 of the Convention.***

Article 6. Payment of family benefit. Referring to the comments it has been formulating for many years regarding the provision of family allowances in respect of children residing abroad, the Committee notes that, under section 94(2) of the Social Security Code, to be entitled to family benefit, dependent children "must reside in the Republic of Guinea, subject to the special provisions of the international Conventions on social security of the International Labour Office, reciprocal agreements or bilateral or multilateral agreements". With respect to reciprocal agreements or bilateral or multilateral agreements, the Committee recalls that to date Guinea has concluded no agreement of this sort for the payment of family allowances in respect of children residing abroad. Regarding the special provisions of the ILO Conventions, it recalls that under *Article 6* of Convention No. 118 any State which has accepted the obligations of the Convention for branch (i) (family benefit) must guarantee payment of family allowances both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention for that branch, as well as for refugees and stateless persons, in respect of children who reside on the territory of any such State, under conditions and within limits to be agreed upon by the States concerned. ***The Committee notes that the Government's report does not provide any information in this respect and hopes that the Government will be able to confirm formally in its next report that the payment of family benefit will also be extended to cover insured persons up to date with their contributions (whether they are nationals, refugees, stateless persons or nationals of any other States which have accepted the obligations of the Convention for branch (i)) whose children reside in the territory of one of these States and not in Guinea. The Committee also requests information as to how the condition of residence is dispensed with in these cases for the application of section 99(2) of the Code, which only recognizes as dependent those children "that live with the insured person", and also for section 101, which makes payment of family allowances subject to an annual medical examination of the child, up to the age where he or she comes under the school medical service, and the regular medical care for beneficiaries of school age attending courses in educational or vocational training establishments.***

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

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

C152 - Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)

Observation 2016

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

The Committee takes note of the adoption of the new Labour Code (Act No. L/2014/072/CNT of 10 January 2014). ***The Committee requests the Government to provide all implementing texts of the Code in view of a complete review of the new legislation.***

Article 6(1)(a) and (b) of the Convention. Measures to ensure the safety of portworkers. The Committee notes that the Government indicates that sections 170 and 172 of the Labour Code, establishing that workers have a general obligation to use health and safety equipment correctly and that those responsible for workplaces have an obligation to organize appropriate practical training with regard to safety and hygiene issues for the benefit of workers, ensure the application of *Article 6(1)(a)* and *(b)* of the Convention. ***The Committee requests the Government to provide detailed information on the measures taken to ensure that these general provisions are applied to portworkers.***

Article 7. Consultation with employers and workers. The Committee notes the information provided by the Government with regard to sections 288 and 290 of the Labour Code, which provide for the establishment of a consultative committee which is to be responsible, amongst other things, for issuing opinions and formulating proposals and resolutions on labour legislation and regulations and social laws. ***The Committee requests the Government to provide information on the application, in practice, of the measures taken to ensure the collaboration between workers and employers provided for in Article 7 of the Convention.***

Article 12. Fighting fire. The Committee notes that sections 71, 72 and 76 of the Merchant Marine Code briefly touch upon the question of fire protection systems and equipment, but only in the context of inspections of vessels engaged in international voyages. ***The Committee requests the Government to take the measures necessary to ensure that appropriate and sufficient firefighting measures are made available for use wherever dock work is carried out.***

Article 32(1). Dangerous cargoes. The Committee notes that section 174 of the Labour Code states, in general, that vendors or distributors of dangerous substances, as well as those responsible for workplaces where such substances are used, are required to mark and label them. ***The Committee requests the Government to indicate the measures taken to ensure the application, in practice, of this provision, which is general in scope, in the dock sector.***

The Committee notes that the information provided by the Government in its report of May 2005 on the application of *Articles 16, 18, 19(1), 29, 30, 35* and *37,* are general in nature and do not permit the Committee to ascertain whether they are being applied in the dock sector. ***The Committee requests the Government to provide further information on the measures taken to ensure the application of Articles 16, 18, 19(1), 29, 30, 35 and 37, of the Convention and to attach copies of the relevant national laws and regulations.***

The Committee notes that the Government's report does not contain replies to its request for further information contained in the previous direct request regarding the application of *Articles 19(2)* and *33* of the Convention. ***The Committee requests the Government to provide the information requested, as well as information on the measures taken with regard to the application of these Articles.***

The Committee notes that, in its report, the Government does not provide any clarification with regard to the measures taken to give effect to *Article 6(1)(c*), and *Articles 2, 8, 9, 10, 11, 14, 15, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32(2)–(5),* and *34* of the Convention. ***The Committee requests the Government to take measures to ensure the application of these Articles and to provide information on any action taken in this regard.***

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

Guinea - Bissau

C081 - Labour Inspection Convention, 1947 (No. 81)

Observation 2016

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

Articles 3(1), 7(3), 10, 11, 14 and 16 of the Convention. Functioning of the labour inspection system. The Committee notes that the application of the Convention faces significant and persistent challenges of a financial and material nature. It notes, for instance, that there are too few inspectors and that the General Labour and Social Security Inspectorate has inadequate means of transport. The Committee is also led to believe that the Government is not in a position to provide labour inspectors with adequate training for the performance of their duties, in accordance with *Article 7(3)* of the Convention. It notes, however, that the inspectors benefited from a number of training activities under the subregion's technical cooperation framework pertaining to labour inspection structures and under the Community of Portuguese-speaking countries (CPLP). The Government also refers to difficulties inherent in gathering reliable data on industrial accidents and cases of occupational diseases, which may be attributed to the under-reporting of workers themselves. The Government is also trying to create conditions that will enable it to send on a regular basis the information available on each of the questions listed under *Article 21* and in the format stipulated under *Article 20,* but it is encountering difficulties of various kinds and would therefore require the ILO's technical assistance for this purpose. ***The Committee asks the Government to submit a formal request to the ILO for technical assistance with a view to drafting and publishing an annual inspection report, as provided for under Articles 20 and 21 of the Convention, and to envisage extending this request to the collection and recording of statistical information on industrial accidents and cases of occupational diseases, and to the establishment of a system to assess the labour inspection services, with a view to determining the measures to be introduced to improve its efficiency. The Committee requests the Government to submit in its next report information on any developments in this area.***

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

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

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

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

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

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

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

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

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

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

Lesotho

C155 - Occupational Safety and Health Convention, 1981 (No. 155)

Observation 2016

Articles 1 and 2 of the Convention. Scope of application. Public employees. The Committee notes the Government's statement, in reply to its previous request, that there is no legislation ensuring that the measures of protection required under the Convention apply to public employees, as such employees are excluded from the application of the Labour Code. ***The Committee requests the Government to provide information on the measures taken or envisaged to ensure that public employees benefit from the protection of the provisions of the Convention.***

Articles 13 and 19(f). Protection of workers removed from imminent and serious danger. The Committee notes the Government's reference, in reply to its previous request, to section 66(2) of the Labour Code which concerns protection against unfair dismissal. The Committee observes that this section does not give effect to the provisions of the Convention. It notes in particular that section 66(3) of the Labour Code lists the invalid grounds for dismissal, but it does not cover specifically the situation described in *Article 13* of the Convention. In this regard it recalls that the protection foreseen in *Article 13* of the Convention refers to the protection of workers from undue consequences where they have removed themselves from a situation they believe presents an imminent and serious danger to their life or health, and that *Article 19(f)* of the Convention provides that an employer cannot require the worker to return to a work situation where there is continuing imminent and serious danger to life or health. ***The Committee urges the Government to take the necessary measures to give effect to these Articles of the Convention, and to provide information in this respect.***

Article 17. Collaboration between two or more undertakings engaged in activities simultaneously at the same workplace. The Committee notes the Government's indication, in reply to its previous request, that there are no specific provisions in the Labour Code giving effect to *Article 17* of the Convention. ***The Committee requests the Government to take measures to ensure in law or in practice that whenever two or more undertakings engage in activities simultaneously at one workplace they shall collaborate in applying the provisions regarding OSH and the working environment.***

Article 19(c) and (e). Information and consultation at the level of the undertaking. ***Noting the Government's indication that the Labour Code does not contain provisions giving effect to Article 19(c) and (e), the Committee requests the Government to take measures to ensure that there are arrangements at the level of the undertaking under which representatives of workers in an undertaking are given adequate information on measures taken to secure OSH and that workers or their representatives and their representative organizations are enabled to enquire into, and are consulted by the employer on all aspects of OSH associated with their work.***

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

Liberia

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Article 1 of the Convention. Legislative developments. For more than 15 years, the Committee has been referring to the fact that there was no legislation or national policy to implement the Convention. The Committee notes with ***satisfaction*** the adoption in June 2015 of the Decent Work Act which provides comprehensive protection against discrimination in the private sector. Specifically, the Committee notes that sections 2.4 and 2.7 of the Act define and prohibit direct and indirect discrimination against all persons who work or who seek to work on all the grounds protected under *Article 1(1)(a)* of the Convention, as well as on a range of additional grounds including tribe, indigenous group, economic status, community, immigrant or temporary resident status, age, physical or mental disability, gender orientation, marital status or family responsibilities, pregnancy and health status including HIV or AIDS status. It also notes that section 2.7(a), which prohibits discrimination against a person "who works or who seeks to work in Liberia in an employment practice", read together with section 2.9 of this Act, which defines "employment practice" broadly to include, inter alia, access to vocational training, access to employment, and particular occupations or jobs, including advertising, recruitment process, selection procedures, appointment, promotion, remuneration security of tenure and termination, extend the above prohibition to all aspects of employment. The Committee further notes that section 2.8 of the Act defines and prohibits both quid pro quo and hostile environment sexual harassment. ***The Committee welcomes the provisions concerning non-discrimination and equality in the Decent Work Act of 2015, and requests the Government to provide information on their application in practice, including details on specific obstacles encountered.***

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

Libya

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2016

Articles 1(1), 2(1) and 25 of the Convention. Situations of forced labour arising from the armed conflict. Trafficking of migrant workers. The Committee notes the various reports from several United Nations (UN) bodies concerning the grave crisis facing the country. It notes in particular the report on the investigation by the Office of the United Nations High Commissioner for Human Rights on Libya of 15 February 2016, which indicates that migrants have been arbitrarily detained or deprived of their liberty, frequently in inhumane conditions, and subjected to financial exploitation and forced labour. In this regard, the High Commissioner recommends that the Government address urgently the situation of migrants and take effective action to combat human trafficking (A/HRC/31/47, paragraphs 61 and 83(j)). The Committee also notes the UN Security Council Resolution 2240 of October 2015, which condemns all acts of migrant smuggling and human trafficking into, through and from the Libyan territory and off the coast of Libya, which undermine further the process of stabilization of Libya and endanger the lives of thousands of people (S/RES/2240 (2015)).

While acknowledging the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take the necessary measures to prevent, suppress and combat trafficking in persons. The Committee trusts that the Government will take the necessary measures to ensure that migrant workers who are subjected to forced labour are fully protected from abusive practices. The Committee also recalls the importance of imposing appropriate criminal penalties on perpetrators so that recourse to trafficking or forced labour does not go unpunished. In this regard, the Committee requests the Government to take the necessary measures to ensure that perpetrators are prosecuted and that sufficiently effective and dissuasive criminal penalties are imposed in practice.

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

C102 - Social Security (Minimum Standards) Convention, 1952 (No. 102)

Observation 2016

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

The Committee takes note of the reports supplied by the Government in 2012 and 2013 on the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), and the Medical Care and Sickness Benefits Convention, 1969 (No. 130), in which the Government refers to the adoption of new legislation having an impact on the application of ratified social security Conventions, including Act No. 12 of 2010, promulgating the new Labour Relations Law, and Act No. 20 of 2010 on health insurance. The Committee notes, in particular, that the Government reiterates that the Social Security Fund is still in the process of carrying out an actuarial study as required by section 34 of the Social Security Law No. 13 of 1980 with a view to undertaking a comprehensive review of periodical payments provided by the social security system, considering the number of participants as well as the monetary and in-kind benefits which will be provided, and the value of contributions for the persons insured in the future. The Government also reiterates its willingness to request the technical assistance of the ILO in this respect.

Conscious of the difficult situation which prevails currently in Libya, the Committee commends the Government's decision to undertake an actuarial analysis before making major parametrical decisions aimed at reforming the national social security system, in line with *Article 71(3) of the Convention* which establishes the general responsibility of the State for the due provision of benefits, including through actuarial studies before any change in benefits, the rate of insurance contributions or the taxes allocated to covering the contingencies in question.

The Committee hopes that the Government will soon be in a position to provide information about new developments in this respect and will resume the examination of the pending technical issues under the abovementioned Conventions.

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

Libya

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

Observation 2016

Article 1(a), (c) and (d) of the Convention. Sanctions involving compulsory labour as a punishment for expressing political views, for breaches of labour discipline or participation in strikes. For a number of years, the Committee has been referring to various provisions of the Publications Act No. 76 of 1972, under which persons expressing certain political views or views ideologically opposed to the established political, social or economic system may be punished with penalties of imprisonment (involving, under section 24(1) of the Penal Code, an obligation to perform labour). The Committee also referred to sections 237 and 238 of the Penal Code, under which penalties of imprisonment (involving compulsory labour) may be imposed on public servants or employees of public institutions as a punishment for breaches of labour discipline or for participation in strikes, even in services the interruption of which would not endanger the life, personal safety or health of the whole or part of the population. The Committee also noted the Government's indication in its previous reports that the Publications Act would be amended to take into account the Committee's comments.

The Committee notes the Government's indication in its report that following the establishment of the revolutionary Transnational Council, laws that were not into conformity with the principles of freedom and democracy were suspended, including Publications Act. Once the first Government was formed, ministerial sectors sought to draft new legislation including, a trade unions act, a civil society organizations regulatory act and a press act. These bills have not been promulgated yet because no national Constitution has been promulgated. The Government also indicates that, once a permanent Constitution is promulgated, the bills will be submitted to the competent authority for promulgation.

The Committee notes furthermore from the Report on the Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya of 15 February 2016 that journalists have faced serious harassment and death threats; some have been subjected to arbitrary detention, abduction and attempted assassination. Female journalists have also been targeted on the basis of their gender. The deaths of several journalists reported to OHCHR require further investigation. Media offices have been raided and attacked. Journalists also face criminal prosecution for defamation and libel for writing on political matters (A/HRC/31/47, paragraph 50).

The Committee must express its ***deep concern*** at the current human rights situation in the country and recalls that restrictions on fundamental rights and liberties, including freedom of expression, may have a bearing on the application of the Convention, if such measures are enforced by sanctions involving compulsory labour. ***While remaining aware of the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee urges the Government to take the necessary measures to ensure that no prison sentences involving compulsory labour are imposed on persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. The Committee trusts that the necessary measures will be taken to bring its legislation into conformity with the Convention, and requests the Government to provide information on the progress made with regards to the adoption of the new legislation.***

C121 - Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)

Observation 2016

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

The Committee takes note of the reports supplied by the Government in 2012 and 2013 on the Social Security (Minimum Standards) Convention, 1952 (No. 102), the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128), and the Medical Care and Sickness Benefits Convention, 1969 (No. 130), in which the Government refers to the adoption of new legislation having an impact on the application of ratified social security Conventions, including Act No. 12 of 2010, promulgating the new Labour Relations Law, and Act No. 20 of 2010 on health insurance. The Committee notes, in particular, that the Government reiterates that the Social Security Fund is still in the process of carrying out an actuarial study as required by section 34 of the Social Security Law No. 13 of 1980 with a view to undertaking a comprehensive review of periodical payments provided by the social security system, considering the number of participants as well as the monetary and in-kind benefits which will be provided, and the value of contributions for the persons insured in the future. The Government also reiterates its willingness to request the technical assistance of the ILO in this respect.

Conscious of the difficult situation which prevails currently in Libya, the Committee commends the Government's decision to undertake an actuarial analysis before making major parametrical decisions aimed at reforming the national social security system, in line with *Article 71(3) of the Convention* which establishes the general responsibility of the State for the due provision of benefits, including through actuarial studies before any change in benefits, the rate of insurance contributions or the taxes allocated to covering the contingencies in question.

The Committee hopes that the Government will soon be in a position to provide information about new developments in this respect and will resume the examination of the pending technical issues under the abovementioned Conventions with the regular reporting cycle.

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

Libya

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Articles 3(a) and 7(2)(b) of the Convention. All forms of slavery and practices similar to slavery and effective and time-bound measures. Compulsory recruitment of children for armed conflict and providing the necessary and appropriate direct assistance for their removal from the worst forms of child labour and for their rehabilitation and social integration. The Committee notes from the Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Libya of 12 January 2015 that Libya is facing the worst political crisis and escalation of violence since the 2011 armed conflict. This report documented tens of cases of children injured, killed or maimed as a result of violence, attacks and shelling on hospitals, schools and camps housing displaced persons. The Committee also notes from the Report on the Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya (A/HRC/31/47 and A/HRC/31/CRP.3-detailed findings) of 15 February 2016 (Investigation Report by the OHCHR), that there is information on the forced recruitment and use of children in hostilities by armed groups pledging allegiance to the Islamic State in Iraq and Levant (ISIL). These children are forced to undergo religious and military training (including how to use and load guns and to aim and shoot at targets using live ammunition), and watch videos of beheadings, in addition to being sexually abused. Children are also reported to be used to detonate bombs. This Report, further referring to another report, indicates that the *Islamic State* in Sirte welcomed the graduation of 85 boys below the age of 16, describing them as the *"Khilapha Cubs"* who were trained in conducting suicide attacks. The Committee ***deeply deplores*** the current situation of children affected by armed conflict in Libya, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. It recalls that, under *Article 3(a)* of the Convention, the forced or compulsory recruitment of children under 18 years of age for use in armed conflict is considered to be one of the worst forms of child labour and that, under *Article 1* of the Convention, member States must take immediate and effective measures to secure the elimination of the worst forms of child labour as a matter of urgency. ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee strongly urges the Government to take measures as a matter of urgency to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed groups. It also urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of all persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out, and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to take effective and time bound measures to provide for their rehabilitation and social integration and to provide information on the measures taken in this regard and on the results achieved.***

Article 7(2). Effective and time-bound measures. Clause (a). Prevent the engagement of children in the worst forms of child labour. Access to free basic education. Following its previous comments, the Committee notes the Government's indication that education is mandatory and free at the primary and secondary level and that training is provided by the vocational training centres established in all parts of Libya. It notes, however, the Government's indication that the number of students who enrolled in the primary level decreased from 1,056,565 in 2009–10 to 952,636 in 2010–11. In this regard, the Committee notes from the Investigation Report by the OHCHR, that access to education in Libya has been significantly curtailed due to the armed conflict, particularly in the east (for example, the Office for the Coordination of Humanitarian Affairs estimated, in September 2015, that 73 per cent of all schools in Benghazi were not functioning). Schools have been either damaged, destroyed, occupied by internally displaced persons, converted into military or detention facilities, or are otherwise dangerous to reach. In addition, in many areas where schools remain open, parents refrain from sending their children to school for fear of injury from attacks, especially of girls being attacked, harassed or abducted by armed groups. Moreover, there are reports that in areas controlled by groups pledging allegiance to ISIL, girls are not allowed to attend school or are permitted only if wearing a full face veil. This report further indicates that children residing in camps for the internally displaced face particular challenges in their access to education. The Committee expresses its ***deep concern*** at the situation of children who are deprived of education because of the climate of insecurity prevailing in the country. ***While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take effective and time-bound measures to improve the functioning of the education system in the country and to facilitate access to free basic education for all children, particularly girls, children in areas affected by armed conflict, and internally displaced children. It requests the Government to provide information on concrete measures taken in this regard and the results achieved.***

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

Madagascar

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA) set out in a communication received on 2 June 2015. The Committee observes that SEKRIMA refers in particular to a number of dismissals for strike action, the imprisonment of four workers of the Antsirabe urban community who took strike action for the non-payment of several months' wages, and alleged unequal treatment of first-level unions affiliated to SEKRIMA during the declaration of existence procedure. ***The Committee requests the Government to send its comments on the matters raised by SEKRIMA.*** The Committee takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Restriction on trade union activities in the maritime sector. With regard to the independent inquiry conducted into anti-union acts in the maritime sector, the Committee notes the information from the Government to the effect that with the re establishment of the rule of law after the crisis in Madagascar, the inquiry will be resumed. ***Observing that it has been raising this matter with the Government since 2008, the Committee urges the Government to ensure that the abovementioned independent inquiry is concluded as soon as possible and to communicate the findings thereof.***

Legislative matters

Article 2 of the Convention. Workers governed by the Maritime Code. With regard to the exclusion from the scope of the Labour Code of workers governed by the Maritime Code and the absence from the Maritime Code of sufficiently clear and precise provisions to ensure the right of the workers to whom it applies to establish and join trade unions, the Committee notes that the Government indicates that: (i) a draft Maritime Code has been prepared; (ii) the draft establishes the right of seafarers to establish and join trade unions, and related rights; and (iii) the adoption of the Maritime Code requires the involvement of a number of institutional bodies. ***While noting that a new Maritime Code is to be adopted shortly, the Committee expresses the firm hope that the right to organize of seafarers will be recognized in the near future, both in law and in practice.***

Article 3. Representativeness of workers' and employers' organizations. Noting that section 137 of the Labour Code provides that the representativeness of employers' and workers' organizations participating in social dialogue at the national level "shall be established on the basis of evidence provided by the organizations concerned and the labour administration", the Committee requested the Government to take steps to ensure that representativeness is determined in a procedure affording full guarantees of impartiality, carried out by an independent body having the confidence of the parties. The Committee notes that the Government reports the adoption, on 6 September 2011, following a favourable opinion from the National Labour Council, of Decree No. 2011-490 on employers' and workers' organizations and representativeness. The Committee observes that according to the Decree the following are deemed representative: (i) at enterprise level, the trade unions in the enterprise that obtain at least one staff delegate in occupational elections; (ii) at sectoral, regional or national levels, the trade unions obtaining at least 10 per cent of all the staff delegates elected at the level concerned. The Committee also observes that the same Decree provides that the criteria of representativeness applying to employers' organizations are: (i) the number of enterprises directly or indirectly affiliated; (ii) the size of the staff of the enterprise; (iii) the contributions paid to social security bodies; and (iv) geographical presence. The Committee further observes that according to the Decree, for the criteria to apply there must be agreement among the employers' organizations. ***While noting with interest the objective nature of the criteria set in Decree No. 2011-490, the Committee requests the Government to provide information on the practical effect given to the Decree and its impact on the determination of the employers' and workers' organizations that participate in social dialogue at national level.***

Compulsory arbitration. The Committee requested the Government to take the necessary steps to amend sections 220 and 225 of the Labour Code which provide that if mediation fails, the collective dispute is referred by the Minister in charge of labour and social legislation to a process of arbitration and that the arbitral award ends the dispute, as well as any strike that may have been started in the meantime. The Committee notes that, according to the Government, this observation will be studied by the National Labour Council. The Committee recalls that, in a collective dispute a compulsory arbitration order is acceptable only where strikes may be prohibited, namely in the case of public servants exercising authority in the name of the State, in essential services in the strict sense of the term and in the event of an acute national crisis. ***The Committee, therefore, requests the Government once again to take all necessary measures to amend the provisions of the Labour Code that concern arbitration so as to align them with this principle.***

Requisitioning. In order to limit the risk of interference by public authorities in the affairs of employers' and workers' organizations, in accordance with *Article 3* of the Convention, the Committee requested the Government to take the necessary steps to amend section 228 of the Labour Code on the requisitioning of striking employees, so as to replace the notion of disruption of the public order by the notion of acute national crisis. The Committee notes that the Government indicates that this observation will be studied by the National Labour Council. ***The Committee requests the Government once again to take all necessary steps to amend section 228 of the Labour Code on requisitioning in order to align it with the principle set out above.***

Madagascar

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA), on the one hand, and the International Trade Union Confederation (ITUC), on the other, in communications received, respectively, on 1 September 2015 and 2 June 2015 concerning issues under examination by the Committee, as well as allegations of acts of anti-union discrimination, and particularly anti-union dismissals. ***The Committee requests the Government to send its comments in this regard.***

The Committee notes the Government's comments on the observations made by SEKRIMA in 2013, the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE) in 2014 and the ITUC in 2011 and 2014.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. With respect to the ITUC's observations of 2011 regarding acts of anti-union discrimination allegedly arising out of the disclosure of the names of trade union members, the Committee notes the Government's indication that there is no legal obligation to provide the list of trade union members and that the Labour Code prohibits anti-union discrimination. ***In view of the repeated observations of various trade union organizations reporting cases of anti-union discrimination which they deem have not led in practice to an adequate response from the public authorities, the Committee requests the Government to provide information on the number of cases of anti-union discrimination examined by the labour inspection services and labour courts, and on the corresponding penalties effectively applied by these institutions.***

Article 4. Promotion of collective bargaining. Representativeness criteria. The Committee notes the adoption on 6 September 2011 of Decree No. 2011-490 on trade unions and representativeness, following the favourable opinion issued by the National Labour Council. The Committee notes with ***interest*** the objective nature of the criteria established by this Decree and refers in this regard to its observation on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

Collective bargaining in sectors subject to privatization. The Committee notes that the Government, in response to the previous observations of the ITUC regarding the status of collective agreements in the railway, telecommunications and energy sectors, indicates that: (i) the privatization of these sectors has made obsolete most of the collective agreements that were in force; (ii) the setting aside of old collective agreements is consistent with Paragraph 3(1) of the Collective Agreements Recommendation, 1951 (No. 91), which provides that collective agreements should bind the signatories thereto and those on whose behalf the agreement is concluded; (iii) the privatized enterprises have therefore set aside the old collective agreements and proceeded to prepare their own agreements; and (iv) the railway enterprise Madarail, which was formerly public, consequently drafted its own collective agreement in June 2003 when it became semi-public. In this regard, the Committee recalls that it considers that the restructuring or privatization of an enterprise should not in itself result in the extinction of the obligations resulting from the collective agreement in force, and that the parties should be able to take a decision in this regard and to participate in these processes through collective bargaining. ***The Committee, while noting the existence of the Madarail collective agreement, therefore requests the Government to report on the status of the existing collective agreements in the energy and telecommunications sectors.***

Promotion of collective bargaining in practice. ***Further to its previous requests, the Committee requests the Government to provide information on the number of collective agreements concluded in the country, including in enterprises employing fewer than 50 workers, and to indicate the number of workers and the sectors covered by these agreements.***

Article 6. Workers benefiting from the guarantees of the Convention. Collective bargaining for seafarers. In its previous comments, the Committee noted that the Labour Code excludes maritime workers from its scope of application and requested the Government to take the necessary measures to ensure the adoption of specific provisions guaranteeing the collective bargaining rights of seafarers governed by the Maritime Code. The Committee notes the Government's indication that: (i) a draft Maritime Code has been drawn up; (ii) the fundamental rights of seafarers are respected in this draft; and (iii) the adoption of the draft Maritime Code requires the intervention of several institutions. ***The Committee trusts that the new draft Maritime Code will provide that maritime workers benefit from the rights guaranteed by the Convention and hopes that the Government will be able to report its adoption in its next report.***

Public servants not engaged in the administration of the State. In its previous comments, the Committee requested the Government to adopt formal provisions clearly recognizing the protection of all public servants and public sector employees not engaged in the administration of the State against acts of anti-union discrimination and interference and their right to bargain collectively their conditions of employment. The Committee notes the Government's indication that contractual public employees, governed by Act No. 94-025 of 17 November 1994, are not covered by specific provisions relating to acts of anti union discrimination or interference or the right to bargain collectively. ***The Committee therefore once again requests the Government to adopt provisions clearly recognizing the protection of all public servants and public sector employees not engaged in the administration of the State against acts of anti union discrimination and interference and their right to bargain collectively their conditions of employment. The Committee trusts that the Government will take the necessary steps to that end, and reminds the Government that it may receive technical assistance from the Office in this regard.***

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

Articles 1 and 2 of the Convention. Equal remuneration for work of equal value. Legislation. For several years, the Committee has been emphasizing that the provisions on equal remuneration of section 53 of the Labour Code are more restrictive than those of the Convention, as they limit the application of the principle of equal remuneration for work of equal value to persons engaged in the same job and with the same vocational qualifications. The Committee notes the Government's indication in its report that in March 2016 the National Conference of Labour Inspectors raised the issue of the amendment of certain provisions of the Labour Code, including section 53, and that a draft text to amend this provision will soon be submitted to the National Labour Council (CNT) to seek the views of the social partners on this subject. ***While recalling that it considers that the full and complete incorporation into the legislation of the principle of equal remuneration for men and women for work of equal value is essential to ensure the effective application of the Convention, the Committee trusts that the Government will take the opportunity of the draft amendment of the Labour Code to achieve the full integration of the principle of the Convention in the new Labour Code, in cooperation with employers' and workers' organizations, and that it will ensure that the new provisions encompass not only equal work or work performed under equal conditions, but also work which is of an entirely different nature, but nevertheless of equal value. It requests the Government to provide information on any progress achieved in this regard and on any other measures adopted or envisaged to promote and ensure equal remuneration for men and women for work of equal value in practice.***

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

Madagascar

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

Observation 2016

Article 1(b) of the Convention. Imposition of forced labour as a method of mobilizing and using labour for the purposes of economic development. In its previous comments, the Committee emphasized that national service, as established in Ordinance No. 78-002 of 16 February 1978 setting forth the general principles of national service, is incompatible with *Article 1(b)* of the Convention. Under the terms of section 2 of the Ordinance, all Malagasies are bound by the duty of national service defined as compulsory participation in national defence and in the economic and social development of the country. This compulsory service, which requires citizens to be engaged in defence or development work, involves citizens of both sexes for a maximum period of two years and may be carried out up to the age of 35. The Committee requested the Government to take the necessary measures to bring its legislation into conformity with the Convention.

The Committee notes the Government's indication that, after the processes of registration and review, young national service conscripts have to carry out their service by choosing between two options: (i) being excused for family reasons, in which case conscription is cancelled or deferred for one year, depending on the circumstances; or (ii) continuing vocational training through Action for Development Military Service (SMAD). The objective of the SMAD is therefore to facilitate the integration into active life of young Malagasies who volunteer for national service. The SMAD is established on a voluntary basis for young persons, and the duration of the training is set at 24 months, following which the volunteers are released from their statutory service obligations. These young persons choose between training for rural or urban trades.

The Committee once again recalls that programmes involving the compulsory participation of young persons in the context of military service or, instead of such service, in work for the development of their country, are incompatible with *Article 1(b)* of the Convention, which prohibits the use of compulsory national service as a method of mobilizing labour for the purposes of economic development. It observes that the Ordinance of 1978 provides that all Malagasies are covered by the duty of national service, defined as *compulsory participation* in national defence and in the *economic and social development of the country.* ***The Committee firmly requests the Government to take the necessary measures to bring Ordinance No. 78-002 of 16 February 1978 into conformity with the Convention by guaranteeing that compulsory national service is not used as a method of mobilizing labour for the purposes of economic development. In the meantime, the Committee requests the Government to specify the relationship between the service obligations envisaged in the framework of compulsory national service, as set out in the Ordinance of 1978, and participation in SMAD. The Committee further requests the Government to indicate the practical modalities for the implementation of the SMAD and whether young persons who have chosen the SMAD can cancel the training on their own initiative. Finally, the Committee requests the Government to indicate the number of cancelations registered and their consequences.***

Madagascar

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Article 1 of the Convention. Protection against discrimination. For several years, the Committee has been emphasizing that neither the Labour Code nor the Civil Service Regulations prohibit discrimination on all the grounds covered by the Convention and has been asking the Government to take the necessary measures to bring the legislation into conformity with the Convention. The Committee noted that the Labour Code does not prohibit discrimination on the basis of colour and social origin (section 261), and that the Civil Service Statute does not prohibit discrimination on grounds of race, colour and social origin (section 5). The Committee notes the Government's indication in its report that, in March 2016, the National Labour Inspectors Conference (SAIT) raised the issue of amending the Labour Code provisions concerning prohibited grounds for discrimination and that a draft to introduce colour and social origin into the list of these grounds and expressly prohibit all discrimination, including indirect discrimination, will be transferred shortly to the National Labour Council (CNT) in order to gather the opinions of the social partners in this regard. With regard to the public service, the Committee notes the Government's indication that, while it considers that the term "colour" is not appropriate to the reality of Malagasy society, it is currently studying the possibility of including this motive in the list of grounds of prohibited discrimination. The Government adds that it also plans to introduce the provisions defining and prohibiting all discrimination, including indirect discrimination, and that all these issues will be raised during the forthcoming revision of the Civil Service Regulations. ***The Committee requests the Government to provide information on progress made regarding the revision of the Labour Code and the Civil Service Regulations to harmonize and supplement national legislative provisions in order to prohibit, in both the public and the private sectors, any discrimination on all of the grounds listed in the Convention, including race, colour and social origin, and to include a definition of discrimination which explicitly covers indirect discrimination. The Committee requests the Government to indicate any measures taken or envisaged in this respect, in cooperation with workers' and employers' organizations. The Committee also requests the Government to provide information on the interpretation and application in practice of section 261 of the Labour Code and section 5 of the Civil Service Regulations, and to provide copies of any administrative or judicial decisions issued in accordance with these provisions.***

Discriminatory job vacancy announcements. In its previous comments, the Committee noted the allegations of the General Confederation of Workers' Unions of Madagascar (FISEMA) concerning the fact that vacancies for jobs as guards, domestic employees or workers in export processing zones advertised on the radio or through notices in the street, impose affiliation to a certain religion as a condition for recruitment or specify that the job is solely for men or women. The Committee notes the Government's statement that some advertisements for vacancies on radio or through notices in public places, are discriminatory in nature with regard to religion or sex. Given that the advertisement of job vacancies on the radio or on public notices has become common practice, the Government indicates that it envisages adopting legislation to regulate this practice in line with the provisions of the Convention. ***The Committee trusts that the Government will adopt, in cooperation with the workers' and employers' organizations, measures aimed at enforcing national legislation and prohibiting in practice all forms of direct and indirect discrimination on all the grounds listed in the Convention, including religion and sex, in job vacancies advertised on the radio or on public notices. It requests the Government to provide information on any progress made in this regard.***

Domestic workers. In its previous comments, the Committee noted that the Christian Confederation of Malagasy Trade Unions (SEKRIMA) highlighted the precarious nature of the conditions of employment of domestic workers, some being employed without an employment contract. The Committee notes the Government's indication that domestic workers enjoy the same rights as other workers, as labour legislation is applicable to them and they can lodge complaints with the labour inspectorate in cases of violations of their rights. The Committee notes, however, that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed its concern about the precarious situation of women and girls in domestic work in private households and recommended that the Government strengthen the capacity of labour inspectors to monitor workplaces, including in private households (CEDAW/C/MDG/CO/6-7, 24 November 2015, paragraphs 30–31). ***The Committee trusts that the Government will take the necessary measures to ensure that domestic workers enjoy, in practice, the protection set out in the provisions of the Labour Code, particularly those relating to non-discrimination and employment conditions. It requests the Government to provide detailed information on the number and outcomes of checks conducted by labour inspectors to ensure the effective application of the provisions of the Labour Code for domestic workers, by sending extracts from inspection reports or relevant studies.***

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

Madagascar

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Madagascar

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the Government's report, received on 25 October 2016, and the in-depth discussion on the application of the Convention by Madagascar in the Committee on the Application of Standards at the 105th Session of the International Labour Conference in June 2016.

Articles 3(b) and 7(1) of the Convention. Worst forms of child labour and sanctions. Child prostitution. In its previous comments, the Committee noted that section 13 of Decree No. 2007-563 of 3 July 2007 respecting child labour categorically prohibits the procuring, use, offering or employment of children of either sex for prostitution and that section 261 of the Labour Code and sections 354–357 of the Penal Code, which are referred to in Decree No. 2007 563, establish effective and dissuasive sanctions. The Committee noted the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA) indicating that the number of girls under the age of majority, some as young as 12 years old, who are engaged in prostitution is increasing especially in cities, that 50 per cent of prostitutes in the capital, Antananarivo, are minors, and 47 per cent engage in prostitution because of their precarious situation. For fear of reprisals, 80 per cent of them prefer not to turn to the authorities. Furthermore, the Government has strengthened the capacity of 120 actors engaged in tourism in Nosy-Be and 35 in Tuléar in relation to sexual exploitation for commercial purposes. However, the Committee noted the absence of information on the number of investigations, prosecutions and convictions of those engaged in commercial sexual exploitation. It also noted the increase in sex tourism involving children, the insufficient measures taken by the Government to combat this phenomenon and the low number of prosecutions and convictions, all of which fosters impunity.

The Committee notes that the Conference Committee recommended the Government to strengthen its efforts to ensure the elimination of the sexual exploitation of children for commercial purposes and sex tourism.

The Committee notes the Government's indication in its report that the Ministry of Internal Security, through the Police for Morals and the Protection of Minors (PMPM), is one of the agencies responsible for the enforcement of penal laws on the sexual exploitation of children for commercial purposes, including prostitution. The PMPM centralizes criminal charges concerning children and is responsible for conducting investigations into alleged perpetrators. The Government adds that the PMPM regularly makes unannounced raids on establishments that are open at night to monitor the identity and age of the persons present, but that it is difficult to determine whether the minors who are found are prostitutes. Moreover, the Committee notes that a code of conduct for actors in the tourism industry was signed in 2013. The code of conduct seeks to raise awareness among all actors in tourism with a view to bringing an end to sexual tourism in the country. The Committee also notes the statistics provided by the Government on the cases handled by the courts of first instance in Betroka, Ambatolampy, Arivonimamo, Nosy-be, Taolagnaro, Vatomandry, Mampikony and Ankazobe. It notes that in 2015 no cases of the exploitation of minors or of sex tourism involving minors were brought before these courts. The Committee is therefore once again bound to note with ***deep concern*** the absence of prosecutions and convictions of perpetrators, which is resulting in the continuation of a situation of impunity which seems to persist in the country. ***The Committee therefore urges the Government to take immediate and effective measures to ensure that robust investigations and effective prosecutions are carried out on persons suspected of procuring, using, offering and employing children for prostitution, and that sufficiently effective and dissuasive penalties are imposed. It requests the Government to continue providing statistical information on the number and nature of the violations reported, investigations, prosecutions, convictions and criminal penalties imposed in this respect. Finally, the Committee requests the Government to provide information on the results achieved as a result of the dissemination of the code of conduct among the various actors in the tourism sector.***

Clause (d). Hazardous types of work. Children working in mines and quarries, and labour inspection. In its previous comments, the Committee noted that children work in the Ilakaka mines and in stone quarries under precarious and sometimes hazardous conditions, and that the worst forms of child labour are found in the informal economy and in rural areas, which the labour administration is unable to cover. The Committee also noted that the work carried out by children in mines and quarries is a contemporary form of slavery, as it involves debt bondage, forced labour and the economic exploitation of those concerned, particularly unaccompanied children working in small-scale mines and quarries. It noted that children work from five to ten hours a day, that they are engaged in transporting blocks of stone or water, and that some boys dig pits one metre in circumference and between 15 and 50 metres deep, while others go down the pits to remove the loose earth. Children between three and seven years of age, often working in family groups, break stones and carry baskets of stones or bricks on their heads, working an average of 47 hours a week when they are not enrolled in school. Moreover, the working conditions are unhealthy and hygiene is extremely poor. All of the children are also exposed to physical and sexual violence and to serious health hazards, particularly due to the contamination of the water, the instability of pits and the collapse of tunnels.

The Committee notes that the Conference Committee recommended the Government to take measures to improve the capacity of the labour inspectorate. It also notes the Government's indication that, in the context of the National Plan of Action to Combat Child Labour (PNA), the labour inspectorate envisages conducting inspections to take preventive and protective measures with a view to combating child labour in mines and quarries in the regions of Diana, Ihorombe and Haute Matsiatra. The Committee notes that the Government representative to the Conference Committee indicated that the lack of resources is a major obstacle to the adoption of rigorous measures. For example, labour inspectors do not have means of transport, even though the Government indicates in its report that one of the main obstacles to inspections by labour inspectors is the fact that mining sites, located on the outskirts of large cities, are often difficult to access. The Committee notes with ***deep concern*** the situation of children working in mines and quarries under particularly hazardous conditions. ***The Committee once again urges the Government to take the necessary measures to ensure that no children under 18 years of age can be engaged in work which is likely to harm their health, safety or morals. It requests the Government to provide information on the progress made in this respect, particularly in the context of the PNA, and the results achieved in removing these children from this worst form of child labour. The Committee also requests the Government to improve the capacities of the labour inspectorate, in particular by providing the necessary resources, such as vehicles, to enable labour inspectors to have access to remote sites.***

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Street children. In its previous comments, the Committee noted that the Ministry of Labour and Social Legislation (MTLS) was continuing its programme of school enrolment and training for street children in the context of the Public Investment Programme for Social Action (PIP). It however noted that the number of street children has increased in recent years and that the action taken by the Government to help them is still minimal. The Government indicated that the programmes financed under the PIP have the objective of removing 40 children a year from the worst forms of child labour, or 120 children over three years. The Committee nevertheless noted that there are about 4,500 street children in the capital, Antananarivo, most of whom are boys (63 per cent) who live from begging or sorting through rubbish. Girls living on the streets are frequently victims of sexual exploitation to meet their subsistence needs, or under pressure from third parties. Others are engaged in domestic work, swelling the ranks of exploited child workers.

The Committee notes that the Conference Committee, in its conclusions, requested the Government to increase funding for the PIP with a view to removing children from the streets and for awareness-raising campaigns.

The Committee notes the Government's indication that the Ministry of the Population, Social Protection and the Promotion of Women has set up a census programme of children living and working on the streets and homeless families for the period 2015–16. The objective of this programme is to determine the number of children living and working on the streets, identify the needs of homeless families and develop a short-, medium- and long-term plan of action to deal with them. The Committee notes that studies have been carried out, data analysed and interpreted, and shelters set up. The next stages will consist of the provision of shelter, care, guidance, education, school enrolment and placement or repatriation of the persons concerned. ***The Committee requests the Government to continue taking effective and time-bound measures to ensure the targeted implementation of the PIP's programmes, and requests it to intensify its efforts to ensure that street children are protected from the worst forms of child labour and are rehabilitated and integrated in society.***

It requests the Government to provide information on the results achieved in this respect. The Committee also requests the Government to provide information on the data collected through the census programme on children living and working in the streets and homeless families, as well as the results achieved in removing them from this situation and preventing them from becoming engaged in the worst forms of child labour.

Application of the Convention in practice. The Committee previously noted that 27.5 per cent of children, or 2,030,000, are engaged in work, of whom 30 per cent live in rural areas and 18 per cent in urban areas. The Committee also noted that 81 per cent of child workers between 5 and 17 years of age, or 1,653,000 children, are engaged in hazardous types of work. Agriculture and fishing account for the majority of child labour (89 per cent), and more than six out of ten working children have reported health problems resulting from their work over the past 12 months. The Committee further noted that child domestic labour is often a feature of the lives of poor rural families who send their children to urban areas in response to their precarious situation. Child domestic workers may be forced to work up to 15 hours per day, and most of them receive no wages, which are paid directly to their parents. In some cases, they sleep on the floor, and many are victims of psychological, physical or sexual violence. The Committee expressed its deep concern at the situation and number of children under 18 years of age forced to perform hazardous types of work.

The Committee notes the Government's indication that it is intensifying its efforts to combat child labour through the Manjary Soa project. The Manjary Soa Centre, established in 2001, offers selected children second chance education. Once these children have been reinserted into the public education system, the Centre covers their school fees and provides them with the necessary school supplies. The Committee also notes the 2014–16 project to combat child labour in the regions of Diana and Atsimo Andrefana. The Government indicates that the objective of this project is to reinforce action in support of the socio-economic reintegration of 100 girls under 18 years of age, who have been removed from sexual exploitation for commercial purposes in Nosy-be, Toliara and Mangily. ***The Committee requests the Government to intensify its efforts to eliminate the worst forms of child labour, and particularly hazardous types of work, and to provide information on any progress made in this regard and the results achieved.***

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

Malawi

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2016

Articles 1(1) and 2(1) of the Convention. 1. *Debt bondage.* Over a number of years, the Committee has been raising the issue of forced labour in tobacco plantations pursuant to allegations from various workers' organizations. It noted that the Government denied these allegations, stating that the labour inspectors had never heard of such cases and that no forced labour complaint had been filed. The Committee also noted that, in its 2010 report for the periodic review of the General Council of the World Trade Organization (WTO) regarding trade policies of Malawi, the International Trade Union Confederation (ITUC) highlighted that in plantations, especially in tobacco farms, tenant labourers are exploited through an indebtedness system and coerced into labour by the landlords. The Committee requested the Government to take the necessary measures to expedite the adoption of the Tenancy Labour Bill with a view to strengthening the protection of tenant labourers against the debt mechanisms that may result in debt bondage.

The Committee notes the Government's indication in its report that it has taken a position to abolish the tenancy system itself and consultations will soon start in this respect. The Government also indicates that the tenancy system is a gross violation of human rights as it was designed during an era when human rights were not respected. Finally, the Government states that stakeholders and social partners are of the view of revising the Employment Act to include the tenancy farming, and that it will keep the Committee updated accordingly in this regard. ***The Committee expresses the firm hope that the Government will take the necessary measures to adopt both the Tenancy Labour Bill and the Employment Act without delay in order to ensure the protection of tenant labourers against the debt mechanisms that may result in debt bondage. The Committee requests the Government to supply a copy of the laws once they are adopted.***

2. *Trafficking in persons.* In its previous comments, the Committee noted the absence of specific legislation against trafficking in persons, and therefore requested the Government to take the necessary measures in this respect. The Committee notes the Government's indication in its report that the Trafficking in Persons Act was adopted in 2015. The Committee notes with ***interest*** that the Act covers in its definition forced labour, as well as the forced participation of a person in all forms of commercial sexual activity (Part I). It also notes that a person who traffics another person commits an offence, and shall upon conviction, be liable to imprisonment for 14 years without the option of a fine (section 14). In aggravated circumstances the trafficker is liable to imprisonment for 21 years. Moreover, the Committee notes that the Act provides for the establishment of a National Coordination Committee against Trafficking in Persons that should, among others: (i) coordinate and oversee investigations and receive reports from enforcement officers on the investigation and prosecution of offences under this Act; (ii) initiate education and awareness programmes on the causes and consequences of trafficking in persons; (iii) formulate policy, programmes and strategies to prevent and suppress trafficking in persons; and (iv) liaise with government agencies and non-governmental organizations on rehabilitation and reintegration of trafficked persons. Lastly, the Committee notes that the Act provides for several measures with regard to the protection of victims of trafficking, including the establishment of shelters, as well as an Anti-Trafficking Fund that shall provide care, assistance and support to victims of trafficking in persons.

The Committee further notes that in its concluding observations of 2015, the UN Committee on the Elimination of Discrimination against Women (CEDAW), although welcoming the adoption of the Trafficking in Persons Act, expressed its concern at the large and growing number of cases of trafficking in women and girls, as well as the lack of awareness about the new law and the limited protection and assistance available to victims. ***The Committee requests the Government to strengthen its efforts to prevent and combat trafficking in persons, paying special attention to the situation of women and girls, and to provide information on the application in practice of the Trafficking in Persons Act, 2015, including the number of investigations, prosecutions and convictions. The Committee also requests the Government to provide information on the activities of the National Coordination Committee against Trafficking in Persons, indicating in particular the measures taken to provide assistance to victims of trafficking.***

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

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

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

Article 2 of the Convention. Application of the principle in the public service. Since 2005, the Committee has been raising concerns regarding male and female denominations in the civil service job grading and salary structure. The Committee notes the Government's indication that the grading system is determined by the Department of Human Resource Management and Development and does not involve gender-based denominations. The Committee notes, however, that no information is provided on the manner in which this grading system is established. ***The Committee again asks the Government to provide information describing the various levels of the civil service grading system and salary structure, as determined by the Department of Human Resource Management and Development, and to indicate specifically how it is ensured that the structure is free from gender bias and ensures the application to public servants of the principle of equal remuneration for men and women for work of equal value.***

In its previous comments, the Committee raised concerns that occupational gender segregation in the civil service might result in remuneration gaps between men and women, and noted the low percentage of women holding managerial positions. In this regard, it noted the Government's indication that some efforts were being made to retain women in the public service and promote their longer-term employment, and that a study was being undertaken on women in the public sector with a view to elaborating a Charter on Gender. The Committee notes the Government's indication that a Gender Audit on gender disparities in managerial positions in the civil service has been initiated and that the National Gender Policy and the Gender Equality and Women Empowerment programme seek to address inequalities between men and women in the public and private sectors. ***The Committee asks the Government to provide information on the results of the Gender Audit on disparities between men and women in public service managerial positions and the action taken on these results. The Committee also asks the Government to indicate any specific measures taken or envisaged in the framework of the Charter on Gender, the National Gender Policy and the Gender Equality and Women Empowerment programme to promote greater access of women to higher-level and higher-paid positions and to ensure that men and women receive equal remuneration for work of equal value.***

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

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

Malawi

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

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

Article 2 of the Convention. Legislative developments. The Committee notes with ***interest*** the adoption of the Gender Equality Act of 2013, which aims to promote gender equality and equal integration and opportunities for men and women in all functions of society, provide for public awareness of gender equality, and prohibit and provide redress for direct and indirect discrimination based on sex, harmful practices (harmful social, cultural or religious practices) and sexual harassment. The Committee also notes that the Act provides for quotas on gender equality in public service employment and equal access to education and training. The Act requires the implementation of programmes to promote gender equality in all spheres of life and provides for its enforcement by the Human Rights Commission. ***The Committee requests the Government to provide information on the measures taken to implement the Gender Equality Act of 2013, and the impact in practice of such measures, and particularly the quotas on gender equality established for public service employment, education and training, on the promotion of equality and non-discrimination between men and women in employment and occupation. Please also provide information on the obstacles encountered during implementation, including any issues of legislative interpretation. The Committee requests the Government to provide information on the number and nature of the violations dealt with by the Human Rights Commission.***

Access to education and vocational training. For a number of years, the Committee has been requesting information on the measures taken to address disparities in education levels between men and women. In this respect, the Committee notes the Government's indication that the issue of gender and vocational training is addressed by the National Gender Policy. The Committee further notes that section 16 of the Gender Equality Act of 2013 requires the Government to take active measures to ensure that enrolment in tertiary educational institutions remains above a minimum quota of 40 per cent of students of either sex. Furthermore, section 14(1) of the Act establishes the right of all persons "to access education and training including vocational guidance at all levels". The Act also requires the Government to take active measures to ensure that educational institutions provide equal access to girls and boys, and women and men. ***The Committee requests the Government to provide detailed information on the measures taken to meet the enrolment quota provided for in section 16 of the Gender Equality Act, and on the impact of such measures on women's participation in the labour market, including in so-called traditionally "male" jobs, and higher level positions. The Committee also requests the Government to indicate any specific measures taken in the framework of the National Gender Policy to ensure equality of access to education and training, and to encourage the enrolment of girls and boys, and women and men in a wide range of education and vocational training courses, including in non-traditional fields.***

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

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

Malawi

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

Article 1 of the Convention. National policy and practical application of the Convention. In its previous comments, the Committee noted the adoption of the National Child Labour Policy and the National Action Plan (NAP) on Child Labour for Malawi (2010–16), as well as the Government's intention to conduct a national child labour survey. The Committee also noted that, three baseline surveys conducted in Mulanje, Mzimba and Kasungu in 2011 concerning children of 5–17 years of age, showed the high occurrence of child labour (26.7 per cent in Mulanje and 40 per cent in Mzimba) and children working in hazardous conditions (40 per cent in Kasungu).

The Committee notes the Government's indication in its report that, a report on the results achieved in implementing of the NAP will be supplied in its next report, and that the national child labour survey is under way and its results will be made available once concluded. The Committee also notes that the ILO is implementing the Global Training Programme to achieve reduction of child labour in supporting education in tobacco-growing communities (ARISE II, 2015–18). The Committee further notes that, within the framework of the Global Research Project on Child Labour Measurement and Policy Development (2013–17), the ILO and the National Statistical Office have collected data for the second National Child Labour Survey. ***Expressing its concern at the number of children involved in child labour in Malawi, including in hazardous conditions, the Committee once again urges the Government to take the necessary measures to ensure the progressive abolition of child labour. The Committee also once again requests that the Government supply information on the implementation of the NAP on Child Labour and on the results achieved in terms of the elimination of child labour. Lastly, the Committee requests that the Government provide a copy of the results of the national child labour survey once it is concluded.***

Article 2(1). Scope of application. Self-employed children and children working in the informal economy. In its previous comments, the Committee noted that the Committee on the Rights of the Child expressed concern that many children between 15 and 17 years of age were engaged in work that was considered as hazardous, especially in the tobacco and tea estate sector (CRC/C/MWI/CO/2, paragraph 66). The Committee noted that the Employment Act was applicable only where there was an employment contract or labour relationship and did not cover self-employment, and that the Tenancy Bill, which establishes a minimum age for employment in the tobacco sector and provides for frequent inspections of tobacco estates, had been finalized. The Committee also noted the Government's statement that it was doing all it could to ensure the enactment of the Tenancy Bill.

The Committee notes the Government's statement in its report that the Government has taken a position to abolish the tenancy system in itself as it is a gross violation of human rights, and that the Government will update on the next steps to be made on how tenants will be protected in the amended existing laws. The Committee also notes the Government's report to the Committee of the Rights of the Child of 21 June 2016 (CRC/C/MWI/3-5, paragraph 46) that, the media continues to report cases of all manner of exploitation of children as a result of trafficking and general vulnerability, and one of the most common forms of exploitation is child labour in agriculture. ***The Committee therefore requests that the Government take any necessary measures to ensure that self employed children or children working in the informal economy benefit from the protection of the Convention, and that the labour inspection component concerning children working in the agricultural sector will be strengthened. The Committee also requests that the Government provide information on the progress made in this regard.***

Article 3(1). Minimum age for admission to hazardous work. In its previous comments, the Committee noted a discrepancy between article 23 of the Constitution, which provides for protection from dangerous work for children below the age of 16 years, and section 22(1) of the Employment Act, which, in accordance with the Convention, lays down a minimum age of 18 years for work that is likely to be harmful to their health, safety, education, morals or development, or prejudicial to their attendance in school. This issue was discussed at a tripartite meeting in 2005, where it was agreed by all social partners that there was a need to harmonize the provisions of the national laws. Subsequently, this issue was presented to the Malawi Law Commission for consideration, and the Commission recommended that the age stipulated under article 23 of the Constitution be raised to 18 years of age. The Committee also noted that, according to the NAP on Child Labour, inconsistencies among various pieces of legislation relating to children, including the Constitution, remain an issue.

The Committee notes with ***concern*** that the Government does not provide any information on this point in its report. ***Observing that the discrepancy between section 22(1) of the Employment Act and article 23 of the Constitution has been under discussion since 2005, the Committee once again strongly urges the Government to take the necessary measures, within the framework of the NAP on Child Labour or otherwise, to ensure that the recommended amendment to article 23 of the Constitution is adopted in the very near future, in conformity with Article 3(1) of the Convention, in particular since the Employment Act does not cover self-employed workers.***

Article 9(3). Keeping of registers by employers. The Committee previously noted that section 23 of the Employment Act stipulates that every employer is required to maintain a register of persons aged below 18 years employed by, or working for, him/her. However, the Committee also noted the indication of the Malawi Trade Unions Congress (MCTU) that some estates did not have registers, particularly in commercial agriculture. The Committee noted the Government's information that the draft model register would be finalized by the end of 2010, and that this draft would be submitted to the Tripartite Labour Advisory Council for adoption. The Government also indicated that the model register of employment would be in conformity with *Article 9(3)* of the Convention and would be submitted to the Committee as soon as it is finalized. In this regard, the Committee reminded the Government that, pursuant to *Article 9(3)* of the Convention, the registers kept by employers shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom they employ, or who work for them, and who are less than 18 years of age.

The Committee notes that the Government reiterates its commitment to finalize the model register of employment and to communicate a copy of it as soon as it is prepared. ***Observing that the Government has been referring to the model register of employment since 2006, the Committee strongly urges the Government to take the necessary measures to ensure its elaboration and adoption without delay. It once again requests that the Government supply a copy of the model register as soon as it is adopted.***

Malawi

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

Observation 2016

The Committee notes with ***regret*** that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments:

Tripartite consultations required by the Convention. ***The Committee refers to its previous observations and invites the Government to submit a report containing detailed information on the tripartite consultations held on each of the matters related to international labour standards covered by Article 5(1) of the Convention. It also requests the Government to include information on the nature of any reports or recommendations made as a result of such consultations.***

Article 5(1)(c) and (e) of the Convention. Prospects of ratification of Conventions and proposals for the denunciation of ratified Conventions. In reply to the Committee's previous comments, the Government indicates that it will consult with the social partners regarding the denunciation of Conventions Nos 50, 64, 65, 86, 104 and 107. The Committee recalls that the ILO's Governing Body recommended the denunciation of Conventions Nos 50, 64, 65, 86, 104 and 107 concerning indigenous workers and the ratification of the most updated instrument, the Indigenous and Tribal Peoples Convention, 1989 (No. 169). In the Committee's 2010 direct request on the Underground Work (Women) Convention, 1935 (No. 45), the Committee noted that the Tripartite Labour Advisory Council approved the denunciation of Convention No. 45 and that the Government was consulting with the social partners on the possible ratification of the Safety and Health in Mines Convention, 1995 (No. 176). ***The Committee invites the Government to include in its next report information on the progress achieved to re-examine unratified Conventions – such as Conventions Nos 169 and 176 – in order to promote, as appropriate, their implementation or ratification and to denounce outdated Conventions.***

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

Malawi

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

Articles 3 and 7 of the Convention. Worst forms of child labour and penalties. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children. In its previous comments, the Committee noted that section 179(1) of the Child Care, Protection and Justice Act provides that a person who takes part in any transaction involving child trafficking is liable to life imprisonment. The Committee observed, however, that according to section 2(d) of the same Act, a "child" means a person below the age of *16 years.* The Committee reminded the Government that by virtue of *Article 3(a)* of the Convention, member States are required to prohibit the sale and trafficking of all children under *18 years* of age.

The Committee notes the Government's indication that it has taken note of this observation and that this matter will be taken up with the Malawi Law Commission. The Government further indicates that it will provide information on the application in practice of the Child Care, Protection and Justice Act in subsequent reports, since the Act has only recently come into force. The Committee further notes that, according to the concluding observations of the Human Rights Committee of 18 June 2012, in consideration of the reports submitted under the International Covenant on Civil and Political Rights (CCPR/C/MWI/CO/1, paragraph 15), Malawi has drafted an anti-trafficking bill which should be considered by Parliament soon. ***The Committee accordingly once again urges the Government to take immediate measures to ensure that the Child Care, Protection and Justice Act is amended to extend the prohibition of sale and trafficking to cover all children under the age of 18, as a matter of urgency, and to ensure that the anti-trafficking bill prohibits the sale and trafficking of all children under the age of 18, and is adopted as soon as possible. The Committee also, once again, requests the Government to provide information on the application in practice of this Act, as well as of the anti-trafficking bill once adopted, including in particular, statistics on the number and nature of violations reported, investigations, prosecutions, convictions and penal sanctions imposed.***

Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances. In its previous comments, the Committee noted the Government's statement in its report to the Committee on the Rights of the Child (CRC) of 17 July 2008, that, while there are no data available on the number of children involved in sexual exploitation, including prostitution and pornography, these are recognized problems in the country (CRC/C/MWI/2, paragraph 323). In this regard, it noted that section 87(1)(d) of the Child Care, Protection and Justice Act only provides that a social welfare officer who has reasonable grounds to believe that a child is being used for the purposes of prostitution or immoral practices, may remove and temporarily place the child in a place of safety. The Committee reminded the Government that *Article 3(b)* of the Convention requires member States to prohibit the use, procuring or offering of a child under 18 years for prostitution, for the production of pornography or for pornographic performances.

The Committee once again notes the Government's indication that it will endeavour to include the prohibition against the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, in the labour laws currently under review. The Government also indicates that, meanwhile, the Censorship Board is doing its best to censor pornography. However, the Committee must once again express its ***deep concern*** at the continued lack of regulation to prohibit the commercial sexual exploitation of children, and once again draws the Government's attention to its obligation under *Article 1* to take immediate measures to prohibit the worst forms of child labour, *as a matter of urgency.* ***The Committee accordingly, once again, urges the Government to take the necessary measures, as a matter of urgency, to ensure the adoption of national legislation prohibiting the use, procuring or offering of both boys and girls under 18 years of age, for the purpose of prostitution, for the production of pornography or for pornographic performances, and to include sufficiently effective and dissuasive sanctions in this legislation. It requests the Government to provide information on the progress made in this regard with its next report.***

Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour and providing assistance for the removal of children from these types of work and for their rehabilitation and social integration. Children engaged in hazardous work in commercial agriculture, particularly tobacco estates. In its previous comments, the Committee noted that the CRC, in its concluding observations of 27 March 2009, expressed concern that many children between 15–17 are engaged in work that is considered as hazardous, especially in the tobacco and tea estate sector, which continues to be a major source of child labour (CRC/C/MWI/CO/2, paragraph 66). The Committee noted the Government's information that labour inspections were undertaken in the tobacco sector, to help withdraw children from this sector, to rehabilitate and then to send them back to school. It further noted that it is indicated in the National Action Plan (NAP) on Child Labour that the agricultural sector, including tobacco plantations and family farms, constitutes one of its sectoral priorities, as it accounts for 53 per cent of child labour in the country.

The Committee notes that, according to the 2011 surveys conducted in Mzimba, Mulanje and Kasungu, child labour continues to be dominated by the agricultural sector. In Mzimba, 36.6 per cent of the interviewed children worked in agriculture; and in Mulanje and Kasungu, 23 per cent and 20.4 per cent of the interviewed children respectively had worked in a plantation, farm or garden. All three surveys reported that these children often worked in hazardous conditions without protective gear, and with hazardous equipment such as hoes, ploughs, saws, sickles, panga knives and sprayers. ***Expressing its concern at the number of children engaged in hazardous work in agriculture, the Committee once again urges the Government to strengthen its efforts to protect children from hazardous work in this sector, in particular in tobacco plantations, through measures taken within the framework of the NAP on Child Labour. In this regard, it once again requests the Government to provide concrete information on the number of children who have been thus prevented or withdrawn from engaging in this type of hazardous work, and then rehabilitated and socially integrated.***

Clause (e). Special situation of girls. The Committee previously noted that, according to the Malawi Child Labour Survey of 2002, all the child victims of commercial sexual exploitation were girls. Half of these girls had lost both of their parents, while 65 per cent of them did not attend school past the second year. The Committee also noted that the Committee on the Elimination of Discrimination Against Women (CEDAW), in its concluding observations of 5 February 2010, expressed concern at the extent to which women and girls are involved in sexual exploitation, including prostitution, and the limited statistical data regarding these issues (CEDAW/C/MWI/CO/6, paragraph 24). It therefore requested the Government to provide information on the measures taken to protect girls under the age of 18 from commercial sexual exploitation.

The Committee once again urges the Government to strengthen its efforts to prevent girls under the age of 18 from becoming victims of commercial sexual exploitation, and to remove and rehabilitate victims of this worst form of child labour, within the framework of the NAP on Child Labour or otherwise. It once again requests the Government to provide information on the concrete measures taken in this regard, as well as information on the impact of these measures, with its next report. To the extent possible, all information provided should be disaggregated by age and sex.

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

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

Mauritania

Mauritania

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2016

Mauritania

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

Articles 1(1), 2(1) and 25 of the Convention. Slavery and the vestiges of slavery. In its previous comments, the Committee urged the Government to continue taking the necessary measures to mobilize the competent authorities and society at large with a view to continuing to combat slavery and its vestiges by ensuring strict compliance with the new legislation and that the victims of slavery are identified and have access to justice. The Committee notes the discussion held in June 2016 in the Committee on the Application of Standards of the International Labour Conference and observes that the Conference Committee expressed deep concern that, in practice, the Government had yet to take sufficient measures to combat slavery. Following the discussion, the Government accepted a direct contacts mission, which visited Mauritania from 3 to 7 October 2016. The Committee notes the report of the mission. It also notes the observations made by the International Trade Union Confederation (ITUC) and the General Confederation of Workers of Mauritania (CGTM), received on 31 August and 1 September 2016, respectively.

(a) Effective enforcement of the legislation

The Committee previously requested the Government to accompany the adoption of the Act of 2015 criminalizing slavery and punishing slavery-like practices (hereinafter the 2015 Act) with specific measures to ensure its effective enforcement. The Act reinforced the legislative framework to combat slavery by providing, among other measures, for the possibility for associations for the defence of human rights which have benefited from legal personality for at least five years to take legal action and to be party to civil proceedings, as well as for the establishment of collegial courts to hear cases of offences relating to slavery.

The Committee notes in this regard, from the information contained in the mission's report and communicated by the Government, that the three special criminal courts competent in matters relating to slavery, which have been established in Nema, Nouakchott and Nouadhibou, are operational. The court in Nema handed down a first ruling, under which two persons were convicted to a sentence of five years of imprisonment (of which four years are suspended) and the payment of damages to the victims. In addition, investigating magistrates have already referred a number of cases to the courts in Nema and Nouadhibou, which will be judged in accordance with the 2015 Act. The Government indicates that cases pending before the courts prior to the adoption of the 2015 Act will also be heard by the special criminal courts, but under the 2007 Act.

The Committee also notes the Government's indication that the technical cooperation project currently being developed in Mauritania by the Office to support the implementation of the 2015 Act is assigning a significant proportion of its resources to reinforcing the competent actors for the identification of slave-like practices, and particularly the prosecution services, investigating magistrates and other actors involved in the process, such as the police, the gendarmerie and the administrative authorities. The Government considers that this support will enable it to give effect to its regularly reiterated political will to bring an end to the vestiges of slavery and slavery-like practices which may persist.

The Committee notes the indication by the ITUC in its observations that the police and the judicial authorities have shown themselves to be resistant to investigating or initiating prosecutions following allegations of slavery lodged by victims or associations. According to the ITUC, several cases of slavery reported to the authorities have been reclassified as less serious offences. In other instances, cases have been resolved through informal settlements. While recognizing the importance of the adoption of the 2015 Act and the ruling handed down by the criminal court of Nema, the ITUC considers that the sentence imposed is light in relation to the gravity of the crime committed.

As the mission emphasized in its report, the Committee considers that it is indispensable for the three special criminal courts to operate effectively throughout the territory and to be provided with the necessary personnel and adequate material and logistical resources. The Committee recalls that, under the terms of *Article 25* of the Convention, States are required to ensure that the penalties established by law for the exaction of forced labour are really adequate and are strictly enforced. ***The Committee therefore trusts that the Government will pursue the significant efforts already being made to reinforce the judicial system and that it will take the necessary measures to enable the special criminal courts to render justice so as to ensure that no cases of slavery go unpunished. Considering that to achieve this objective it is indispensable to reinforce the whole of the criminal investigation and prosecution system, the Committee requests the Government to indicate the measures taken to continue raising awareness and training the actors responsible for law enforcement and for the creation of specialized units in the Office of the Public Prosecutor and the forces of order. It is essential that these authorities are in a position to gather proof, assess the facts correctly and initiate the corresponding judicial procedures. Finally, the Committee requests the Government to provide information on the number of cases of slavery reported to the authorities, the number of those cases which resulted in judicial action, and the number and nature of the convictions handed down. The Committee recalls in this respect that the penalties imposed must be commensurate with the seriousness of the crime committed in order to be of a dissuasive nature. Please also indicate whether victims of slavery have been compensated for the damages suffered, in accordance with section 25 of the 2015 Act.***

(b) Assessment of the real situation in relation to slavery

The Committee previously emphasized the complexity of the phenomenon of slavery and its vestiges and the necessity for the Government to take action within the framework of a coordinated global strategy. In this regard, the Committee notes that the direct contacts mission considered that a number of specific elements brought to its knowledge prove that slavery exists in Mauritania. The mission emphasized that "slavery and the vestiges of slavery are two phenomena which do not cover the same situations, do not have the same scope and call for different targeted measures. It is important to identify these two phenomena better. A qualitative and/or quantitative study should make it possible to provide a specific and objective basis for the discussions, thereby calming the debate and demystifying the issue at both the national and international levels." The Committee notes in this regard the Government's indication that it has included as a priority action in the technical cooperation project developed with the Office the preparation of a study which would make it possible to collect sufficient and reliable data on the alleged practices of slavery and in general on forced labour. The Committee also notes the reference by the ITUC to the fact that certain authorities deny the existence of slavery and do not recognize the "vestiges" of slavery. The ITUC considers that such statements send a prejudicial message to the authorities responsible for the enforcement of the legislation to combat slavery.

The Committee recalls that both the Committee of Experts and the Conference Committee have been emphasizing for several years the importance of conducting research work to provide a qualitative and quantitative analysis of the situation with regard to slavery in Mauritania. ***The Committee hopes that the Government will not fail to take the necessary measures to conduct a study that will enable it to be in possession of reliable data on the nature and prevalence of slavery-like practices in Mauritania. The Committee hopes that these data will provide a basis for improving the planning and targeting of public interventions with a view, on the one hand, to reaching out effectively and protecting persons who are victims of slavery and, on the other, determining more effectively the measures intended to combat the vestiges of slavery.***

(c) Inclusive and coordinated action

With regard to the need to adopt a global coordinated approach, the Committee previously noted that action to combat slavery and its vestiges falls within the purview of the roadmap to combat the vestiges of slavery, responsibility for the implementation and follow-up of which lies with a Ministerial Committee chaired by the Prime Minister. The Committee notes the Government's indication that 70 per cent of the recommendations contained in the roadmap have been implemented. Many awareness-raising activities have been carried out in collaboration with civil society and the religious authorities, such as: the awareness-raising caravans which have travelled throughout the territory (ten of the 15 regions of the country); the organization of seminars and discussions on the radio and television to raise awareness of the unlawful nature of slavery; the position taken by the Uléma community concerning the prohibition of slavery and the decision to harmonize Friday prayers, which for several months addressed the position of Islam in relation to the prohibition of slavery. With regard to action to combat poverty, the Committee notes that the Tadamoun Agency (National Agency to Combat the Vestiges of Slavery) is continuing to develop programmes targeting zones in which there is little state presence and zones in which the descendants of slaves *(adwabas)* are concentrated, and particularly

the Triangle of Hope. The objective of these programmes is to provide basic services in the fields of sanitation, education and health. The programmes implemented are also aimed at providing the population with means of production. Finally, with reference to education, the Committee notes the action undertaken in priority education areas, and the apprenticeship programmes developed for teenagers who have never gone to school.

The Committee notes that the mission welcomed the efforts made by the Government in these fields. It also welcomed the multisectoral approach and the inter-ministerial coordination which have been introduced to combat slavery and its vestiges. However, the mission emphasized that this coordination should be accompanied by greater communication and visibility of the action taken. This action must form part of an inclusive approach involving the social partners and civil society. In this respect, the Committee notes the complaint by the CGTM of the absence of dialogue, particularly with representative trade unions, which risks compromising government programmes and the efforts made to combat slavery and its vestiges.

The Committee hopes that the Government will continue to implement all of the recommendations contained in the roadmap and that the Inter-ministerial Technical Committee will undertake an evaluation of the impact of the measures taken in this context. Recalling that action to combat slavery requires the broadest commitment, the Committee hopes that on the occasion of this evaluation and the determination of further action, the Government will continue to collaborate with civil society and the religious authorities, and that it will associate the social partners with such action. The Committee also hopes that the Government will continue to provide the Tadamoun Agency with the necessary resources to combat the vestiges of slavery, which are manifest in the poverty, dependence and stigmatization of which the descendants of slaves may be victims.

(d) Identification and protection of victims

The Committee previously emphasized that the victims of slavery are in a situation of great vulnerability which requires specific action by the State. The Committee notes the observation by the mission in its report that the relation between victims and their masters is multidimensional. Their economic, social and psychological dependence varies in degree and results in a broad range of situations that call for a series of complementary measures. Victims are not aware of their rights and may come under very strong social pressure if they denounce their situation. The mission considered that it would be appropriate to establish a mechanism to provide shelter for presumed victims as soon as they lodge a complaint or are identified. ***The Committee expresses the firm hope that the Government will continue the action taken to delegitimize slavery with a view to reaching out to all the persons who may be concerned, whether they are masters or slaves. The Committee requests the Government to indicate the measures taken to ensure that victims who are identified or who denounce their situation are assisted and protected so that they can assert their rights and stand up to any social pressure exerted upon them. Please indicate whether the creation of a public mechanism to provide shelter to victims is planned and specify the manner in which the authorities collaborate with associations that protect and defend slaves. Finally, the Committee requests the Government to specify the assistance provided to victims so that they can reconstruct their lives and to prevent them returning to a situation of dependence in which they are stigmatized and vulnerable to abuse.***

Mauritania

C081 - Labour Inspection Convention, 1947 (No. 81)

Observation 2016

The Committee notes the observations made by the General Confederation of Workers of Mauritania (CGTM), received on 30 August 2016, which reiterate the observations made previously.

The Committee recalls that at the 102nd Session of the International Labour Conference in June 2013, the Committee on the Application of Standards (CAS) requested that the Government provide a detailed report on the application of the Convention by Mauritania. However, the Committee recalls that the Government did not provide a report in 2013 and that only partial information was provided in 2014. In 2015, the Committee once again requested that the Government provide a detailed report and made specific comments on the points raised below. It notes that the detailed report has not been provided, and that the Government's report once again provides only partial information.

The Committee also notes that ILO technical assistance concerning the labour inspectorate is currently being provided. This assistance covers, among other matters, the issues the Committee has raised.

The Committee therefore once again requests the Government to provide detailed replies to its comments, and to provide information on any measures taken or envisaged in the context of the technical assistance, in order to improve the application of the Convention.

Articles 6 and 15(a) of the Convention. Status and conditions of service of labour inspectors and controllers such as to ensure their stability of employment and independence from changes of government and from improper external influences. In its previous comments, the Committee requested that the Government provide information on the status and conditions of service of labour inspectors as compared to those of public officials discharging similar duties, such as tax inspectors, and details of the compensation to which labour inspectors in the various categories are entitled. In this regard, the Government indicates in its report that it has spared no effort to ensure an appropriate standard of living for labour inspectors and secure their independence. The Committee welcomes the information provided by the Government that labour inspectors and controllers benefited from salary increases in 2013 and 2015, and that allowances for housing, furnishing and urban transport are an integral part of their salaries and are provided on a monthly basis. The Government also refers to Decree No. 2013-187/PM of 15 December 2013, supplementing certain provisions of Decree No. 99-001/PM of 11 January 1999 harmonizing and simplifying the system of remuneration for State officials which establishes the amount of hardship allowances, incentive bonuses and pay for on-call duties for labour inspectors and controllers. With regard to tax inspectors, the Government adds that they receive a bonus on tax receipts, a bonus for the recovery of unpaid taxes and a productivity bonus, and that 20 per cent of the product of fines, penalties and confiscations for violations of customs and exchange control rules is distributed among them. The Government also indicates that, in collaboration with the General Directorate of the Public Service, it has embarked upon the implementation of a career plan for labour inspectors, taking into account the comments made by the Committee and the social partners. However, the Committee notes that, according to the CGTM, labour inspectors do not benefit from a specific status protecting and organizing the profession, that their salaries are not commensurate with their duties, and that independence in the discharge of their duties is a matter of concern for trade unions. The Government observes, in this respect, that action taken by the Labour Department is broadly explained in its report and it contests the observations of the CGTM concerning the absence of a specific status for labour inspectors. The Government refers in this regard to Decree No. 2007-21 of 15 January 2007 issuing specific conditions of service for the labour administration, which establishes such a status. ***While noting the information provided by the Government, the Committee firmly encourages the Government to continue taking all necessary measures to ensure, for labour inspectors and controllers, stability of employment, career prospects and salaries that are commensurate with their responsibilities.***

Articles 10, 11 and 16. Need to reinforce the financial and material resources available to the labour inspection services and the inspection staff for the effective discharge of inspection duties. Further to its request on this point in its previous comment, the Committee notes the Government's indication that there are a total of 13 regional labour inspectorates (including three created in 2014), in which 52 labour inspectors and 19 labour controllers are employed, and that all of the regional inspection services are allocated an annual budget for their operational needs. All inspection services were provided with computers, portable telephones, photocopiers, scanners, chairs, seats for the public, carpets and air-conditioning, during the first quarter of 2014. Nevertheless, the transport facilities are inadequate; namely, five four-wheel drive vehicles for 13 inspectorates, and old vehicles are to be made available to the other inspection services if the resources so permit. The Committee further notes, from the comments in the summary of the reports of regional inspectorates for 2014, the inadequacy of the transport facilities, the need to repair and maintain existing vehicles and state of dilapidation of the premises of certain inspectorates. The Committee also notes that the CGTM, observing that the Government has recently extended the geographical coverage through the establishment of new labour inspectorates, considers that labour inspectors discharge their functions under derisory working conditions, without transport facilities while covering fairly large areas. In this regard, the Government emphasizes the substantial improvements made recently which henceforth enable labour inspectors and controllers to substantially improve the discharge of their duties. ***The Committee requests that the Government take measures to improve the means of transport necessary for the discharge of the duties of labour inspectors, particularly in the regional inspectorates that are furthest from urban areas, to cover the maintenance and repair costs of existing vehicles and to reimburse any travel expenses and additional expenses incurred by labour inspectors and controllers in the necessary discharge of their duties. It also requests that the Government provide information on the measures adopted or envisaged to remedy the conditions of inspection services.***

Articles 19, 20 and 21. Preparation, publication and communication to the ILO of an annual inspection report. With reference to its previous comments concerning the communication to the ILO of annual inspection reports, the Committee notes that, according to the summary of the reports of regional labour inspectorates for 2014, only eight of the existing 11 regional inspectorates provided annual reports and, due to the arrangement of administrative areas, the reports of three regional labour inspectorates are only partial. The Committee observes that the summary is very brief and does not allow for the overall assessment of the activities of the labour inspectorate and their outcome. ***The Committee requests that the Government take the necessary measures, including technical assistance if necessary, to develop a system for the collection and compilation of data with a view to the preparation by local inspection offices of periodic reports so as to enable the central inspection authority to prepare an annual report in accordance with the relevant provisions of the Convention.***

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

Mauritania

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

The Committee notes the observations of the General Confederation of Workers of Mauritania (CGTM), dated 28 August 2015 and 30 August 2016, which highlight the existence in practice of significant gender discrimination in remuneration in relation to jobs of the same value. The CGTM also indicates that employers obstruct access for women to certain senior executive posts and points out that if women do reach that level, they do not receive the same treatment, they are paid a salary approximately 30 per cent lower than that of men, and they do not enjoy the same benefits linked to the posts that they occupy. The Committee notes that the Government, in its communication of 7 October 2015, rejects the CGTM's allegations and states that there is no gender wage discrimination.

Articles 1 and 2 of the Convention. Application of the principle. Legislation and collective agreements. In June 2009, the Conference Committee on the Application of Standards urged the Government to amend the Labour Code and Act No. 93-09 of 18 January 1993 issuing the general regulations for officials and contract employees of the State, in order to give full expression to the principle of equal remuneration for men and women for work of equal value in both the public and private sectors. Section 191 of the Labour Code provides that "under equal conditions of work, vocational qualification and output, wages shall be equal for all workers regardless of their origin, sex, age or status", which is more restrictive than the principle established by the Convention. The general collective labour agreement (CCGT) of 1974 refers to "equal conditions of work and output" (section 37) and Act No. 93-09 does not contain any provisions on equal pay. The Committee draws the Government's attention to paragraphs 672–681 of its 2012 General Survey on the fundamental Conventions, in which it explains the importance and the scope of the concept of "work of equal value" for enabling a comparison of different jobs since, because of historical attitudes and stereotypes regarding women's aspirations, preferences and capabilities, women and men do not occupy the same jobs. The Committee recalls that, in determining the respective values of two jobs under comparison, factors such as working conditions and vocational qualifications are relevant but it is not necessary for each factor to be equal in value as it is the overall value of the job that counts, namely when all the combined factors are taken into account. In addition, experience has shown that insistence on factors such as "equal conditions of work, skill and output" can be used as a pretext for paying women lower wages than men. The Committee recalls that, when there are discriminatory provisions in collective agreements, governments should take the necessary steps, in cooperation with the social partners, to ensure that provisions of collective agreements observe the principle of equal remuneration for men and women for work of equal value (see 2012 General Survey, paragraph 694). The Committee notes the Government's indication in its report that it has asked the social partners to communicate their views on the future revision of the Labour Code and the general collective labour agreement (CCGT) in order to align these instruments to international labour standards. ***Highlighting once again the importance of the concept of "work of equal value" and in view of the persistent pay gap, the Committee trusts that the Government, in the context of the announced revision of the Labour Code and the CCGT, will soon take the necessary steps to amend section 191 of the Labour Code and section 37 of the CCGT and also Act No. 93-09 of 18 January 1993 so that they expressly establish the principle of equal remuneration for men and women for work of equal value.***

Application of the Convention in practice. The Committee recalls that appropriate data and statistics are crucial in determining the nature, extent and causes of unequal remuneration between men and women, to set priorities and design appropriate measures, and to monitor and evaluate the impact of such measures and make any necessary adjustments (see 2012 General Survey, paragraphs 887–891). ***Referring to the conclusions formulated by the Conference Committee in June 2009 and in view of the lack of information on this subject, the Committee requests the Government to take the necessary steps to collect and analyse data on wages for men and women and invites it to undertake an examination of the causes of the gender remuneration gap in order to devise appropriate remedial measures.***

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

[The Government is asked to reply in full to the present comments in 2018.]

C102 - Social Security (Minimum Standards) Convention, 1952 (No. 102)

Observation 2016

Articles 71 and 72 of the Convention. General responsibility of the State for the proper administration of the social security system. With reference to its previous comments and the observations made in recent years by the Free Confederation of Mauritanian Workers (CLTM) and the General Confederation of Workers of Mauritania (CGTM) concerning the application of the Convention in practice, the Committee notes that the National Social Security Fund (CNSS) supervisory services have prepared annual supervision plans with the objective of inspecting all employers to prevent any evasion of contributions and are collaborating for this purpose with the legal affairs unit of the general inspectorate of the fiscal administration services. The CNSS is also represented at the single counter established by the Ministry of the Economy and Finance for the registration of new employers following their establishment and procedures have been simplified for the submission of declarations and the payment of contributions, which now occurs on a quarterly basis for all employers. The CNSS has also established a plan of action for the period 2014–20 in which priority is given to:

·-the implementation of the conclusions of the 2002 actuarial study recommending the gradual increase of contribution rates and the regular raising of contribution ceilings (from 70,000 to 150,000 ouguiyas);

·-the search for a lasting equilibrium in the system through an investment policy offering good returns and a new actuarial evaluation, submitted to the tripartite partners during the course of 2016;

·-the extension in 2017 of the coverage of the system to all the regions of the country; and

·-the adaptation, as indicated previously, of the applicable legislation to the economic and social situation with ILO support for the revision of the legislation.

The Committee takes due note of this information, which bears witness to a resolute desire to guarantee the durability and proper governance of the social security system and requests the Government to report on the progress achieved in the implementation of the announced reforms, in accordance with Articles 71 and 72 of the Convention, under the terms of which the State shall accept general responsibility for the proper administration of the social security system, based on a clear and precise legal framework, reliable actuarial data, supervision by the representatives of the persons protected, an effective inspection system and sufficiently dissuasive penalties. The Committee observes in this regard that the social partners have not provided further observations and would be grateful to be informed whether they participate in the implementation of these reforms.

Part XI of the Convention (Standards to be complied with by periodical payments). Article 65. With regard to raising the ceilings for the earnings taken into consideration for the purposes of contributions, the Committee recalls that, under the terms of *Article 65* of the Convention, contributions should be set at a sufficiently high level to guarantee the minimum level of benefit for the persons protected whose earnings do not exceed the ceiling. ***The Committee therefore requests the Government to indicate in its next report the level of the said reference wage.***

Mauritania

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Article 1 of the Convention. Discrimination on the basis of race, colour, national extraction or social origin. The Committee recalls that the Free Confederation of Mauritanian Workers (CLTM) previously reported the existence of discriminatory practices in employment and occupation to which slaves, former slaves and descendants of slaves are exposed. It notes that the roadmap adopted in March 2014 to eradicate the remnants of slavery recommends incorporating provisions on discrimination in the relevant legislation. The Committee takes due note of the adoption of Act No. 2015-031 of 10 September 2015 repealing and replacing Act No. 2007-048 of 3 September 2007 to criminalize slavery and punish slavery-like practices, which continues to prohibit all forms of discrimination against a person deemed to be a slave (section 2). It notes that in its report the Government again provides information on the activities of the TADAMOUN agency, created in 2013 to eliminate the vestiges of slavery through integration and poverty reduction, and mentions the implementation of the triennial action plan (2015–17) targeting 604 villages and groups of persons suffering from the vestiges of slavery and extreme poverty. The Government specifies that the agency finances income-generating activities to combat extreme poverty, in particular in the *adwabas* (villages inhabited by victims of the vestiges of slavery), and has enabled education infrastructure (schools, etc.) to be built. The Committee takes note of the information gathered by the ILO direct contacts mission that visited Mauritania from 3 to 7 October 2016 following the examination by the Conference Committee on the Application of Standards in June 2016 of the application of the Forced Labour Convention, 1930 (No. 29). The Committee notes in particular the adoption of an education action plan providing for the creation of priority education areas, in which training centres have been established for children who have never been to school. The mission report indicates that progress has been observed in the legislation, the judiciary and development in terms of reducing poverty, but that the need to produce a shift in mentality was raised by many participants as an important factor in combating such a complex phenomenon. As the Committee has previously pointed out, it considers that in the context of the global strategy to combat slavery and its vestiges, it is important to take specific measures against the discriminatory practices faced by victims, in particular those which, in the absence of equality of opportunity, result in former slaves finding themselves back in slavery. ***While noting the efforts made by the Government to reduce poverty, the Committee again requests the Government to take the necessary steps to combat discrimination, including discrimination based on social origin, and the stigmatization suffered by certain segments of the population, particularly former slaves and descendants of slaves, in terms of access to education, training and employment, and to ensure the effective promotion of real equality and tolerance among the population.***

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

Mauritius

C012 - Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)

Observation 2016

Non-compliance with various provisions of Conventions Nos 12, 17 and 19. For more than 40 years, the Committee has been pointing out that the Workmen's Compensation Act (Chapter 220), which remains applicable to certain categories of workers excluded from the application of the National Pensions Act, 1976, does not give effect to the following provisions of Convention No. 17: *Article 5 (the principle of the payment of compensation in the form of periodical payments in the case of permanent incapacity or death), Article 7 (additional compensation for workers injured in such a way as to require the constant help of another person), Article 9 (free entitlement to the necessary medical and surgical aid), Article 10 (supply and renewal of artificial limbs and surgical appliances)* and *Article 11 (guarantees against the insolvency of the employer or insurer).* Since 1999, the Government has been reiterating that a merger of the Workmen's Compensation Act and the National Pensions Act, 1976 (NPA), which gives effect to the above provisions, was envisaged with a view to ensuring the full application of the Convention and that a Bill was before the National Assembly. The Committee notes from the information provided by the Government in its last report that the merger of the above legislation has still not been completed which results in the above provisions of the Convention not being applied to, inter alia, employees of the central government and of parastatal bodies and local authorities (earning less than a prescribed amount), to workers of the sugar industry and to foreign workers working in export processing zones residing less than two years in the country. All non-citizens employed in export manufacturing enterprises become insured persons under the NPA only if they have resided in Mauritius for a period of at least two years, during which they are entitled to compensation only under the provisions of the Workmen's Compensation Act 1931 in breach of the principle of equality of treatment guaranteed by *Article 1 of the Convention.* ***In these circumstances, the Committee cannot but again request the Government to conclude the merger of the Workmen's Compensation Act 1931 and the National Pension Act 1976 as soon as possible and to take other necessary measures to bring the national legislation fully in line with Conventions Nos 12, 17 and 19 for all the categories of workers protected by the Convention and to report on the measures taken in this regard.***

Conclusions and recommendations of the Standards Review Mechanism. The Committee notes that, at its 328th Session in October 2016, the Governing Body of the ILO adopted the conclusions and recommendations formulated by the Standards Review Mechanism Tripartite Working Group (SRM TWG), recalling that Conventions Nos 12, 17 and 42 to which Mauritius is party are outdated and charging the Office with follow-up work aimed at encouraging States party only to these Conventions to ratify the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Part VI, as these represent the most up-to-date instruments in this subject area. ***The Committee reminds the Government of the availability of ILO technical assistance in this regard.***

C017 - Workmen's Compensation (Accidents) Convention, 1925 (No. 17)

Observation 2016

Non-compliance with various provisions of Conventions Nos 12, 17 and 19. For more than 40 years, the Committee has been pointing out that the Workmen's Compensation Act (Chapter 220), which remains applicable to certain categories of workers excluded from the application of the National Pensions Act, 1976, does not give effect to the following provisions of Convention No. 17: *Article 5 (the principle of the payment of compensation in the form of periodical payments in the case of permanent incapacity or death), Article 7 (additional compensation for workers injured in such a way as to require the constant help of another person), Article 9 (free entitlement to the necessary medical and surgical aid), Article 10 (supply and renewal of artificial limbs and surgical appliances)* and *Article 11 (guarantees against the insolvency of the employer or insurer).* Since 1999, the Government has been reiterating that a merger of the Workmen's Compensation Act and the National Pensions Act, 1976 (NPA), which gives effect to the above provisions, was envisaged with a view to ensuring the full application of the Convention and that a Bill was before the National Assembly. The Committee notes from the information provided by the Government in its last report that the merger of the above legislation has still not been completed which results in the above provisions of the Convention not being applied to, inter alia, employees of the central government and of parastatal bodies and local authorities (earning less than a prescribed amount), to workers of the sugar industry and to foreign workers working in export processing zones residing less than two years in the country. All non-citizens employed in export manufacturing enterprises become insured persons under the NPA only if they have resided in Mauritius for a period of at least two years, during which they are entitled to compensation only under the provisions of the Workmen's Compensation Act 1931 in breach of the principle of equality of treatment guaranteed by *Article 1 of the Convention.* ***In these circumstances, the Committee cannot but again request the Government to conclude the merger of the Workmen's Compensation Act 1931 and the National Pension Act 1976 as soon as possible and to take other necessary measures to bring the national legislation fully in line with Conventions Nos 12, 17 and 19 for all the categories of workers protected by the Convention and to report on the measures taken in this regard.***

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Mauritius

C019 - Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)

Observation 2016

Non-compliance with various provisions of Conventions Nos 12, 17 and 19. For more than 40 years, the Committee has been pointing out that the Workmen's Compensation Act (Chapter 220), which remains applicable to certain categories of workers excluded from the application of the National Pensions Act, 1976, does not give effect to the following provisions of Convention No. 17: *Article 5 (the principle of the payment of compensation in the form of periodical payments in the case of permanent incapacity or death), Article 7 (additional compensation for workers injured in such a way as to require the constant help of another person), Article 9 (free entitlement to the necessary medical and surgical aid), Article 10 (supply and renewal of artificial limbs and surgical appliances)* and *Article 11 (guarantees against the insolvency of the employer or insurer).* Since 1999, the Government has been reiterating that a merger of the Workmen's Compensation Act and the National Pensions Act, 1976 (NPA), which gives effect to the above provisions, was envisaged with a view to ensuring the full application of the Convention and that a Bill was before the National Assembly. The Committee notes from the information provided by the Government in its last report that the merger of the above legislation has still not been completed which results in the above provisions of the Convention not being applied to, inter alia, employees of the central government and of parastatal bodies and local authorities (earning less than a prescribed amount), to workers of the sugar industry and to foreign workers working in export processing zones residing less than two years in the country. All non-citizens employed in export manufacturing enterprises become insured persons under the NPA only if they have resided in Mauritius for a period of at least two years, during which they are entitled to compensation only under the provisions of the Workmen's Compensation Act 1931 in breach of the principle of equality of treatment guaranteed by *Article 1 of the Convention.* ***In these circumstances, the Committee cannot but again request the Government to conclude the merger of the Workmen's Compensation Act 1931 and the National Pension Act 1976 as soon as possible and to take other necessary measures to bring the national legislation fully in line with Conventions Nos 12, 17 and 19 for all the categories of workers protected by the Convention and to report on the measures taken in this regard.***

Conclusions and recommendations of the Standards Review Mechanism. The Committee notes that, at its 328th Session in October 2016, the Governing Body of the ILO adopted the conclusions and recommendations formulated by the Standards Review Mechanism Tripartite Working Group (SRM TWG), recalling that Conventions Nos 12, 17 and 42 to which Mauritius is party are outdated and charging the Office with follow-up work aimed at encouraging States party only to these Conventions to ratify the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Part VI, as these represent the most up-to-date instruments in this subject area. ***The Committee reminds the Government of the availability of ILO technical assistance in this regard.***

Mauritius

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

Mauritius

The Committee notes the observations from the Confederation of Private Sector Workers (CTSP) dated 31 August 2016 and from the General Trade Unions Federation (GTUF) dated 22 September 2016. ***The Committee notes that these observations relate to matters examined by the Committee in its present observation, as well as to denunciations of violations in practice on which the Committee is requesting the Government to provide its comments.***

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee takes due note of the debate which took place within the Conference Committee in June 2016 and the ensuing conclusions, according to which the Government is requested to: (i) cease its intervention into free and voluntary collective bargaining between employers and workers in the sugar industry; (ii) take concrete measures to promote and encourage the greater development and utilization of procedures of voluntary negotiations between employers or employers' organizations on the one hand, and workers' organizations, on the other, in order to regulate the terms and conditions of employment through collective bargaining agreements. This includes collective bargaining in EPZs, in the garment sector and in the sugar industry; (iii) provide detailed information on the current situation of collective bargaining in the EPZs and on the concrete measures to promote it in those zones; (iv) refrain from infringing *Article 4 of the Convention* and from committing similar violations in the future; (v) cease all interference in collective bargaining in the private sector with respect to principles related to mandatory arbitration; and (vi) accept technical assistance from the Office to comply with these conclusions.

Article 1. Adequate protection against acts of anti-union discrimination. The Committee notes the allegation of the Worker member of Mauritius before the Conference Committee that, when trade unions are established in export processing zones (EPZs), trade union representatives are often faced with harassment, intimidation, threats, discrimination and unfair dismissals. Similarly, the CTSP alleges in its observations that the right to collective bargaining is undermined in the private sector by frequent acts of anti-union discrimination, in particular that trade union leaders and delegates can be sacked without any justification and without being paid any compensation, that since the 2013 legislative amendments, the number of union delegates that have been sacked for "cosmetic reasons" through disciplinary committee has increased drastically, and that it is hence very difficult to convince union members to accept the responsibility as a union delegate. In this regard, the CTSP also denounces lengthy and cumbersome dispute settlement and judicial proceedings and denial of time-off facilities for the employees concerned to attend the hearings. ***Recalling that legal standards on protection against acts of anti-union discrimination are inadequate if they are not accompanied by sufficiently dissuasive sanctions and effective and expeditious procedures to ensure their practical application, the Committee requests the Government to provide information on the application of this Article in practice, including statistical data on the number of complaints of anti-union discrimination brought before the competent authorities (labour inspectorate and judicial bodies), the outcome of relevant judicial or other proceedings and their average duration, as well as the number and nature of sanctions imposed or remedies provided.***

Article 4. Promotion of collective bargaining. In its previous observation, the Committee urged the Government to provide detailed information on the current situation with regard to collective bargaining in the EPZs, as well as on the concrete measures taken or envisaged to encourage and promote voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to regulating terms and conditions of employment by means of collective agreements, in EPZs, the textile sector and for migrant workers. Furthermore, the Committee once again requested the Government to take measures in order to compile statistical information on collective agreements in the country and on the use of conciliation services.

The Committee notes from the information provided by the Government to the Conference Committee that: (i) seminars and talks are conducted on an ongoing basis by the Ministry of Labour targeting workers in different sectors including the EPZ/textile sector; between July 2015 to May 2016, 46 training/sensitization activities were carried out, and 1,769 male and 1,344 female employees in the EPZ/textile sector benefited from these sessions, wherein emphasis was laid on legal provisions and rights at work including those pertaining to the right to collective bargaining and unionization as guaranteed in labour law; (ii) sensitization of workers in this regard is also effected on an ongoing basis during inspection visits at workplaces; during the period 2009–15, 757 inspection visits were carried out in the EPZ sector reaching out to 102,127 local workers (38,376 male and 63,751 female), and 2,059 inspection visits in undertakings with 30,468 (20,455 male and 10,013 female) migrant workers employed in the manufacturing sector; and (iii) from the 62 collective agreements registered with the Ministry of Labour as of May 2010 to date, four agreements concern the EPZ sector.

While welcoming that, as reported to the Conference Committee, certain steps have already been taken to favour collective bargaining in the EPZs, the Committee observes that the Government did not provide in its report any supplementary information in relation to the issues raised in the Conference Committee's conclusions. ***The Committee requests the Government to redouble its efforts, in particular in EPZs, in the garment sector and in the sugar industry, to promote and encourage the greater development and utilization of procedures of voluntary negotiations between employers or employers' organizations and workers' organizations to regulate the terms and conditions of employment through collective bargaining agreements. It also requests the Government to continue to supply, or if necessary to compile, statistical information on the functioning of collective bargaining in practice (number of collective agreements concluded in the private sector, especially in EPZs; branches and the number of workers covered), as well as on the use of conciliation services.***

Interference in collective bargaining. With regard to the alleged Government interference in collective bargaining in the sugar sector, the Committee had firmly hoped that, in the future, the Government would make every effort to refrain from having recourse to compulsory arbitration with the effect of bringing to an end collective labour disputes in the sugar sector.

In this regard, the Committee notes that the Government indicated to the Conference Committee that: (i) intervention by the Government in collective bargaining in the sugar sector in 2010 and 2014 was recognized, although the Government had intervened in good faith, at the request of one party, in order to assist the parties to obtain an agreement; and (ii) since the conclusions of the Conference Committee in June 2015, the Government was avoiding any intervention in collective bargaining between employers and workers. The Committee further notes the Government's indication in its report that, in 2014, following requests made by both parties, the Government had intervened to provide a conciliation service to address the strike, and an agreement had been reached between parties according to which work would resume and three outstanding issues would be referred to the National Remuneration Board (NRB) whereas other issues including wage increase would be referred to an independent arbitrator; and that the Government had never intervened on its own volition and never imposed a referral to the NRB or arbitration. The Committee also takes note of the view of the GTUF that the Government's interventions in collective bargaining in 2010, 2012 and 2014 do not amount to interference contrary to *Article 4* of the Convention, and notes in particular that, according to the information supplied by the GTUF, the parties had explicitly agreed in the framework of the 2012 and 2014 collective agreements concluded following the Government intervention, to refer the unresolved issues to the NRB or to appoint an independent arbitrator. The Committee observes however that, with respect to 2010, the referral of 21 unresolved issues to the NRB did not form part of the relevant collective agreement.

The Committee recalls that the imposition of a compulsory arbitration procedure if the parties do not reach agreement on a draft collective agreement through collective bargaining is incompatible with the voluntary nature of collective bargaining and is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term and acute national crises, conditions that the Committee had considered were not fulfilled at the time. At the same time, the Committee emphasizes that recourse to public authorities, like the NRB, agreed voluntarily by both parties would not raise problems in relation to the application of the Convention. ***The Committee trusts that, in the future, the Government will, within the parameters provided above, continue to refrain from having recourse to compulsory arbitration with the effect of bringing to an end collective labour disputes in the sugar sector, and that in any event it will give priority to collective bargaining of a voluntary nature as the means of determining terms and conditions of employment in that sector.***

Technical assistance of the Office. Recalling that, in its conclusions ensuing from the debate in June 2016, the Conference Committee requested the

Government to accept technical assistance from the Office to comply with the conclusions, the Committee notes the Government's indication that any request for technical assistance of the Office in relation to the issues raised by the Committee will be made under the second generation Decent Work Country Programme (DWCP) for Mauritius, the preparation of which is under way. ***Noting that the DWCP in force will expire at the end of 2016 and that in the framework of the current labour review, the proposals for legislative amendments are expected to be finalized by the end of 2016, the Committee once again encourages the Government to consider availing itself of the technical assistance of the Office in relation to the issues raised in this observation, including as regards the labour review, so as to ensure that the final version of the proposed amendments is in full conformity with the Convention.***

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

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

Article 2 of the Convention. Determination of minimum wages. Remuneration Regulations. In its previous comments, the Committee urged the Government to accelerate the process of reviewing and amending the discriminatory provisions in the Remuneration Regulations. The Committee notes with ***interest*** that, following a review undertaken by the National Remuneration Board (NRB), the discriminatory provisions prescribing wages on a gender basis for workers have been removed in the new Cleaning Enterprises (Remuneration) Regulations of 2013; the Electrical Engineering and Mechanical Workshops (Remuneration) Regulations of 2013; the Office Attendants (Remuneration) Regulations of 2013; the Printing Industry (Remuneration) Regulations of 2014; and the Catering and Tourism Industries (Remuneration) Regulations of 2014.

The Committee notes, however, that the Remuneration Regulations governing the Salt Manufacturing Industry, the Sugar Industry (Agricultural Workers) and the Tea Industry still contain different wage rates for male and female workers, but that the Government indicates that these Regulations are gradually being reviewed by the NRB. In this regard, the Committee notes that, in December 2015, the Board recommended removing all remaining gender-specific job appellations in the Remuneration Regulations, as well as to ensure equal remuneration for both women and men workers in "the same job category performing exactly the same duties", and proposed the higher salary as the basic wage. The NRB, however, considered, concerning the tea industry, that "the apparent discriminatory salaries for field workers and factory workers has all its raison d'être given that the duties performed by men workers differ from that of women workers as per the very definition of those workers in the Regulations". In this regard, the Government further indicates that not only for the tea industry, but also for the salt manufacturing and sugar industries, limitations exist on the assignment of work whereby female workers are not required to perform tasks which are exclusively reserved for men workers, and that when both are performing the same type of work the tasks allotted to women workers are lesser as compared to those assigned to male workers.

Referring to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee draws the Government's attention to the fact that limitations of work to be assigned to women which go beyond maternity protection can, together with sex-specific terminology used in wage determination, reinforce stereotypes regarding women's professional preferences and abilities, and thus increase the likelihood of wage inequality. It further notes that while section 20 of the Employment Rights Act (ERiA) 2008 gives legislative expression to the principle of equal remuneration for work of equal value, the Remuneration Regulations in the salt manufacturing, sugar and tea industries still contain different wage rates between men and women in the same occupational category. However, those men and women workers may perform different tasks involving different skills which could be nevertheless considered as work of equal value according to the Convention. The Committee recalls that special attention is needed to ensure that the remuneration rates fixed are free from gender bias, and in particular that certain skills considered to be "female" are not undervalued (see 2012 General Survey on the fundamental Conventions, paragraph 683). ***The Committee urges the Government to increase its efforts to amend without delay the Remuneration Regulations concerning the salt manufacturing, sugar and tea industries in order to remove all remaining gender-specific job appellations as well as different wage rates for men and women in the same job category, which constitute direct wage discrimination based on sex which should be addressed as a matter of urgency. The Committee further urges the Government to provide specific information on the measures taken to ensure that when determining minimum wage rates by occupation, certain skills considered to be "female" are not undervalued in comparison with traditionally "male" skills, such as heavy lifting, and that female-dominated occupations are not undervalued in comparison with male-dominated occupations. It requests the Government to provide information on the status of revision of the Remuneration Regulations, as well as a copy of the relevant amendments, once adopted. The Committee requests the Government to provide statistics on the distribution of men and women in the different categories of workers provided for under the abovementioned Remuneration Regulations.***

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

Mauritius

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Articles 1 and 2 of the Convention. Discrimination on the basis of race, colour, national extraction and social origin. Since 2007, the Committee has repeatedly expressed concern over persistent ethnic occupational stereotypes in the labour market, which particularly affect the members of the Malaise Creole community. It previously noted the existence of a hierarchy along skin colour, ancestry, caste and racial lines, as well as the discriminatory employment practices faced more particularly by women migrant workers. The Committee notes the Government's indication that data on the employment situation of ethnic minorities in the country are not collected as a matter of principle as the issue is considered very sensitive. Noting further that according to the report of 2014 of the Equal Opportunities Commission (EOC) the caste system is still rooted in society, especially in the public sector, the Committee notes with ***regret*** that the Government does not provide information on any measures envisaged or taken to address this situation. The Committee further notes from this report that ethnic origin, together with race and colour, are one of the grounds of discrimination most frequently invoked by complainants, from both the public and private sectors, mainly with respect to recruitment and promotion. From 2012 to 2015, 85 complaints alleging discrimination on the grounds of race, colour or ethnic origin have been lodged before the EOC. ***The Committee urges the Government to take proactive measures to address without delay discrimination based on race, colour and ethnic and social origin, as well as occupational stereotyping in the labour market, including awareness-raising campaigns, in order to promote equality of opportunity and treatment of all segments of the population. The Committee requests the Government to provide information on any measures taken by the Government and the EOC in this regard. It further encourages the Government to undertake studies or research to analyse the situation of the different groups in the labour market, in particular members of the Malaise Creole community and migrant workers, with a view to effectively eliminating any discrimination against them on the grounds of race, colour, national extraction and social origin, as required by the Convention.***

Article 1(2). Inherent requirements of a particular job. The Committee previously noted that section 13 of the Equal Opportunities Act (EOA) of 2008 provides for a wide range of cases in which an employer or a prospective employer may discriminate against a person on the basis of sex, race, colour, religion or political opinion. Furthermore, section 6(3) of the EOA and section 4(3) and (4) of the Employment Rights Act (ERiA) 2008, provide that conditions, requirements or practices that have or are likely to have a "disadvantaging effect" are not deemed discrimination where they are "justifiable" or "reasonable in the circumstances". The Committee notes the Government's indication that no information is available on the interpretation of these provisions in practice and that no recommendation has been provided in this regard by the EOC. The Committee recalls that in order to come within the scope of the exception provided for in *Article 1(2)* of the Convention, the criteria on which the exception is based must correspond in a concrete and objective way to the inherent requirements of a particular job. Systematic application of requirements involving one or more of the grounds of discrimination set out in the Convention is inadmissible and careful examination of each individual case is required. Such exceptions should be interpreted restrictively and on a case by-case basis so as to avoid undue limitation of the protection that the Convention is intended to provide (2012 General Survey on the fundamental Conventions, paragraphs 827–831). ***The Committee requests the Government to examine the manner in which section 4(3) and (4) of the ERiA and sections 6(3) and 13 of the EOA are applied in practice, and to provide concrete examples of the particular jobs concerned, as well as information on any judicial decisions interpreting these provisions or any advice, decisions or recommendations by the EOC dealing with this issue. It urges the Government to take the necessary measures to ensure that the exceptions permitted correspond in a concrete and objective way to the inherent requirements of a particular job, as required by the Convention.***

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

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

Observation 2016

Article 1(a) and (b) of the Convention. Compulsory labour for persons identified as "unproductive" or "anti-social". For many years, the Committee has been drawing the Government's attention to the need to amend the Ministerial Directive of 15 June 1985 on the evacuation of towns, under which persons identified as "unproductive" or "anti-social" may be arrested and sent to re-education centres or assigned to productive sectors. The Government indicated previously that re-education centres no longer existed and that the 1985 Directive had become obsolete and would be repealed within the framework of the revision of the Penal Code. The Committee observes with ***regret*** that the new Penal Code adopted in December 2014 (Act No. 35/2014) does not repeal this Directive. The Committee recalls that, under the terms of *Article 1(a)* and *(b)* of the Convention, States undertake not to make use of any form of forced or compulsory labour as a means of political coercion or education or as a method of mobilizing and using labour for purposes of economic development. ***The Committee urges the Government to take the necessary measures to formally repeal the Ministerial Directive of 15 June 1985 on the evacuation of towns so as to bring the legislation into conformity with the Convention and with the practice indicated, and thereby ensure legal certainty.***

Article 1(b) and (c). Imposition of sentences of imprisonment involving an obligation to work for the purposes of economic development and as a means of labour discipline. For many years, the Committee has been emphasizing the need to amend or repeal certain provisions of Act No. 5/82 of 9 June 1982 concerning the defence of the economy. This Act provides for the punishment of types of conduct which, directly or indirectly, jeopardize economic development, prevent the implementation of the national plan and are detrimental to the material or spiritual well-being of the population. Sections 10, 12, 13 and 14 of the Act prescribe prison sentences, which may involve compulsory labour, for repeated cases of failure to fulfil the economic obligations set forth in instructions, directives, procedures, etc., governing the preparation or implementation of the national State plan. Section 7 of the Act penalizes unintentional conduct (such as negligence, the lack of a sense of responsibility, etc.) resulting in the infringement of managerial or disciplinary standards.

The Committee noted previously that in 2007 the Constitutional Council declared a law adopted by the Assembly of the Republic repealing Act No. 5/82 (as amended by Act No. 9/87) to be unconstitutional, considering that the blanket repeal of these Acts would have the effect of no longer criminalizing or punishing certain conducts that jeopardize economic development that are not punishable by other legislative texts, thereby leaving a legal vacuum. The Committee notes that, although the 2014 Penal Code repeals certain provisions of these two Acts, the sections covered by its previous comments, namely sections 7, 10, 12, 13 and 14, remain in force. ***The Committee regrets that the Government did not take the opportunity of the adoption of the new Penal Code to bring its legislation into conformity with the Convention and it trusts that the Government will not fail to take the necessary measures to repeal the provisions of Act No. 5/82 concerning the defence of the economy, as amended by Act No. 9/87, which are contrary to the Convention.***

Article 1(d). Penalties imposed for participation in strikes. In previous comments, the Committee noted that, under section 268(3) of the Labour Act (Act No. 23/2007), striking workers who are in violation of the provisions of section 202(1) and section 209(1) (obligation to ensure a minimum service) face disciplinary penalties and may incur criminal liability, in accordance with the general legislation. The Committee notes that the Government has not provided any information on the nature of the penalties which may be faced by striking workers in cases where their criminal liability is incurred, nor on the provisions of the general legislation that are applicable in this respect. The Committee recalls in this regard that, in accordance with *Article 1(d)* of the Convention, persons who participate peacefully in a strike cannot be liable to imprisonment involving compulsory labour. ***The Committee therefore once again requests the Government to indicate the nature of the penalties that may be imposed on striking workers where their criminal liability is incurred pursuant to the provisions of section 268(3) of the Labour Act. Referring also to its comments on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee requests the Government to take the necessary measures to ensure that no prison sentences involving compulsory labour can be imposed on workers who participate peacefully in a strike.***

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

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2016

Articles 1(1), 2(1) and 25 of the Convention. Slavery and similar practices. For many years, the Committee has been examining the question of the persistence of slavery-like practices in Niger and drawing the Government's attention to the need to combine legislation criminalizing slavery with a comprehensive strategy for combating slavery that includes measures to raise awareness in society and among the competent authorities, as well as measures to reduce poverty and to assist and rehabilitate victims.

Institutional framework and strategy for combating slavery. The Committee previously considered that the setting up in 2006 of the National Committee for Combating the Vestiges of Forced Labour and Discrimination constituted an important measure. However, it expressed concern at the fact that this Committee lacked the resources to hold meetings and that it had been impossible to implement the national action plan for combating the vestiges of forced labour and discrimination. The Government indicates in its report that the necessary steps are being taken to relaunch the abovementioned Committee. It points out that the National Coordinating Committee for Action against Trafficking in Persons (CNCLTP) and the National Agency for Action against Trafficking in Persons (ANLTP) are carrying out a significant number of activities to raise awareness and provide information on trafficking in persons which also focus on slavery-like practices. The aim of these activities has also been to publicize the legislative instruments for combating trafficking in persons including slavery vis-à-vis the law enforcement authorities.

The Committee notes this information. It welcomes the fact that the activities performed by the bodies responsible for combating trafficking in persons have also resulted in a better understanding of slavery and in increased awareness in society and among the competent authorities. However, the Committee emphasizes that action against slavery-like practices calls for specific measures which are different from those required for combating trafficking in persons since the two practices have their own particular features and constitute different offences. ***Moreover, in view of the complex factors that cause the persistence of slavery-like practices, the Committee once again expresses the firm hope that the Government will take all the necessary steps to adopt a specific strategy to combat slavery which, on the basis of a prior evaluation of the situation, will determine the action to be taken and the precise objectives to be achieved and will be allocated sufficient resources for its implementation. The Committee trusts that, further to the measures taken by the Government, the National Committee for Combating the Vestiges of Forced Labour and Discrimination will be in a position to discharge its duties and coordinate measures to combat slavery. Lastly, recalling that awareness-raising among the population as a whole, including the religious authorities, is a vital component of this policy, the Committee requests the Government to provide information on the activities carried out in this sphere. The Committee also requests the Government to indicate the programmes specifically aimed at providing former slaves or descendants of slaves with adequate means of subsistence so as to prevent them from returning to a situation of dependence where they run the risk of labour exploitation.***

Legislative framework and application of effective criminal penalties. The Committee previously referred to Act No. 2003-025 of 13 June 2003 incorporating into the Penal Code sections 270-1 to 270-5, which define the elements constituting the crime of slavery and slavery-related offences and lay down the applicable penalties. It emphasized that it was essential that victims of slavery should have access, in practice, to the police and judicial authorities in order to assert their rights and that perpetrators of the crime of slavery or slavery-related offences should be brought to justice.

The Government indicates that the Act of 2003 is applied with full force when recourse is had to the authorities. It adds that, in 2011, a law was adopted establishing the rules applicable to legal and judicial assistance and establishing the National Agency for Legal and Judicial Assistance. The components of this legal assistance include public awareness-raising with regard to rights and justice, promoting access to the bodies responsible for the implementation of these rights, assistance with the drafting of legal documents and taking steps to assert the rights concerned. The Government indicates that this assistance constitutes significant progress in ensuring the restoration of victims' rights. It also refers to an order issued in May 2014 by the Birni Konni Criminal Court sentencing a man to four years' imprisonment for the crime of slavery, plus a fine and the payment of damages and interest to the complainant NGO.

The Committee notes all the above information. However, it observes that since the adoption of provisions criminalizing slavery in 2003, very little information has been sent on prosecutions and penalties relating to the perpetrators of slavery. It hopes that the measures adopted to provide victims with legal assistance will enable the latter to assert their rights more effectively and without fear of reprisals. The Committee emphasizes that victims of slavery are in a highly vulnerable economic and psychological situation which calls for targeted action by the State. ***The Committee therefore firmly hopes that awareness-raising and publicity campaigns relating specifically to the legal provisions criminalizing slavery will be conducted in areas where slavery-like practices have been detected, and that such campaigns will target both the public and the authorities concerned. The Committee also requests the Government to indicate the capacity-building measures taken in relation to law enforcement bodies and the prosecution and judicial authorities with the aim of better understanding, identification and suppression of slavery-like practices. The Committee hopes that the Government will be in a position to provide information in its next report on the complaints filed, judicial proceedings initiated and court decisions handed down on the basis of sections 270-1 to 270-5 of the Penal Code.***

Lastly, the Committee notes the report published in July 2015 by the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, further to her mission to Niger (A/HRC/30/35/Add.1). The Committee notes the Special Rapporteur's observation that the Government is committed to eradicating slavery and similar practices but is facing a number of challenges "to address effectively the root causes of slavery, including poverty, inequality and customary norms that cause widespread discrimination against former slaves and their descendants and undermine efforts to create alternative livelihoods". The Special Rapporteur underlines the need to improve the coordination and streamlining of anti-slavery efforts, ensure effective law enforcement, increase access to justice and enhance victim protection and empowerment. ***The Committee strongly encourages the Government to intensify its efforts to put an end to all slavery-like practices that deprive individuals of their free will and the freedom to choose their work. The Committee hopes that, to this end, the Government will continue to avail itself of technical assistance from the Office.***

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

Niger

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of the International Organisation of Employers (IOE) received on 1 September 2015, which are of a general nature.

Article 2 of the Convention. Scope of application. The Committee notes the Government's indication that new Act No. 2012-045 of 25 September 2012 issuing the Labour Code of the Republic of Niger has been adopted. The Committee observes that section 191 of the Act provides that workers over 16 years of age but under the age of majority may join trade unions. In this regard, the Committee recalls that the minimum age for membership of a trade union should be the same as that fixed by the Labour Code for admission to employment (14 years, according to section 106 of the Code). ***The Committee requests the Government to take the necessary steps to amend section 191 of the Labour Code accordingly.***

Articles 3 and 10. Provisions on requisitioning. The Committee recalls that it has been requesting the Government for many years to amend section 9 of Ordinance No. 96-009 of 21 March 1996 regulating the exercise of the right to strike of state employees and employees of territorial communities so as to restrict its scope only to public servants exercising authority in the name of the State, to essential services in the strict sense of the term, or to cases in which work stoppages are likely to provoke an acute national crisis. The Government previously indicated that the revision of the abovementioned Ordinance had been hindered by the lack of agreement between the social partners and the Government and by problems relating to the representativeness of trade unions. The Committee trusted that the Government would take all the necessary measures without delay to amend section 9 of Ordinance No. 96-009 and recalled the possibility of seeking technical assistance from the Office in that regard. The Committee notes the Government's indication that a number of necessary measures have been adopted to that end, namely: Order No. 996/MFP/T/DGT/DTSS of 20 July 2011, relative to the establishment, the structure and powers of the committee responsible for establishing the legal framework of occupational elections to determine the representativeness of employers' and workers' organizations; Order No. 289/MET/SS of 18 March 2014, establishing the rules for occupational elections to determine the representativeness of employers' and workers' organizations; Order No. 446/MET/SS/DGT/PDS of 16 April 2014, concerning the nomination of members of the National Occupational Election Board; and Order No. 1624/MET/SS/DGT/PDS of 7 July 2014, concerning the nomination of members of the executive committee of the National Occupational Election Board. According to the Government, the occupational elections in progress will make it possible to resolve the issue of trade union representativeness, thereby enabling the disagreements between the Government and the social partners to be settled and paving the way for the revision of Ordinance No. 96-009. ***The Committee notes these indications and trusts that the Government will proceed with the revision of Ordinance No. 96-009 in the near future. The Committee requests the Government to provide information on any developments in this respect.***

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

Niger

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

Articles 1, 2 and 3 of the Convention. Adequate protection against acts of anti-union discrimination and acts of interference against public servants not engaged in the administration of the State. The Committee previously noted that neither the General Public Service Regulations nor Decree No. 2008-244/PRN/MFP/T of 31 July 2008, implementing those Regulations, contains any provisions which explicitly prohibit acts of anti-union discrimination or interference or which ensure adequate protection for workers' organizations against acts of anti-union discrimination or interference by means of prompt and effective penalties and procedures. The Committee requested the Government to indicate whether any regulations are in force which ensure such protection for public servants not engaged in the administration of the State. While noting the Government's comments on administrative and judicial remedies available to public servants who consider that their rights have been infringed, the Committee insists on the need to adopt specific legislative provisions prohibiting acts of anti-union discrimination or interference and setting out prompt and effective penalties. ***The Committee requests the Government to take the necessary measures to that effect and to provide information on all developments in this regard.***

Article 4. Promotion of collective bargaining. The Committee notes the Government's indication that new Act No. 2012-045 of 25 September 2012 issuing the Labour Code of the Republic of Niger has been adopted. The Committee notes that, in accordance with section 238 of the Labour Code, the Council of Ministers, further to the opinion of the Advisory Committee on Work and Employment, determines the conditions for submission, publication and translation of collective agreements. ***The Committee requests the Government to indicate whether measures have been taken in this regard.***

The Committee also notes that, under section 242 of the Labour Code, at the request of one of the workers' or employers' organizations concerned and considered the most representative, or at its own initiative, the Minister responsible for labour shall convene the meeting of a joint committee with a view to concluding a collective labour agreement to regulate the relationships between employers and workers from one or several branches of economic activity at the national, regional and local levels. The section also stipulates that the composition of this Committee, which is chaired by the Minister and includes an equal number of representatives from the most representative workers' and employers' trade union organizations, is determined by order of the Minister responsible for labour. ***The Committee recalls that, as Article 4 of the Convention aims at the promotion of free and voluntary collective bargaining, workers' and employers' organizations must be able to freely designate their representatives for that purpose. In that connection, the Committee requests the Government to specify the terms for appointing representatives of workers' and employers' organizations to the negotiating committees indicated in section 242 of the Labour Code.***

Criteria for representativeness. The Committee notes that, pursuant to section 229 of the Labour Code, the trade unions or professional groups of workers recognized as the most representative may engage in collective bargaining. The Committee also notes that, under section 185 of the Labour Code, the representative nature of workers' and employers' trade union organizations is determined by the results of professional elections, that the classification resulting from these elections is announced by order of the Minister responsible for labour, which determines the arrangements for these elections, following consultation with the workers' and employers' trade union organizations, and that, to determine the representativeness of enterprise trade unions, the results of elections for staff delegates are taken into account. The Committee notes the Government's indication that, in order to determine the most representative workers' and employers' organizations, the Government is committed to the professional election process and that several decisions have been taken in this regard, leading, inter alia, to the establishment of the National Professional Election Committee (CONEP). ***The Committee welcomes these initiatives. Recalling that the procedures for determining the representativeness of workers' and employers' organizations must be undertaken according to precise, objective and pre-established criteria and implemented by an independent body which has the confidence of the parties, the Committee requests the Government to provide information on the unfolding of the professional elections and their outcome regarding the determination of representative workers' and employers' organizations.***

Articles 4 and 6. Right to collective bargaining of public servants not engaged in the administration of the State. In its previous comments, the Committee requested the Government to take steps to guarantee the right to collective bargaining to public servants not engaged in the administration of the State and to provide information on any measures taken towards this end. In this regard, the Committee notes with ***satisfaction*** the information provided by the Government concerning the conclusion, between 2012 and 2014, of four major collective agreements concerning workers from both the public and private sectors, the content of which is described in the Committee's comments relating to the Collective Bargaining Convention, 1981 (No. 154). In this regard, the Committee recalls that it is not aware of any specific legal provisions guaranteeing the right to collective bargaining to public servants not engaged in the administration of the State that are subject to special legislation or regulations and are, therefore, exempt from the application of section 252 of the Labour Code. ***The Committee, therefore, invites the Government to ensure that the legislation in force regarding the recognition and exercise of the right to collective bargaining in the public sector is aligned with the practice and to continue providing information on the number of collective agreements signed, the sectors concerned and the workers covered.***

C102 - Social Security (Minimum Standards) Convention, 1952 (No. 102)

Observation 2016

Minimum standards of the Convention and national social protection floor. The Government's report describes the many areas of progress achieved in the implementation, within the framework of the social security system, of a national social protection floor, in accordance with the Social Protection Floors Recommendation, 2012 (No. 202). The formulation in 2015 of a preliminary proposal concerning the essential guarantees which could make up the social protection floor has resulted in a process of national dialogue undertaken with ILO support. A study on the budgetary resources necessary to finance the various elements of the social protection floor has been validated in a tripartite context, followed by the preparation of feasibility studies for the progressive implementation of universal health insurance.

With regard to the establishment of basic social security guarantees for all those in need of such protection, the Committee recalls that Convention No. 102 provides for the possibility of their implementation through basic benefits paid to all residents whose means do not exceed certain limits. ***The Committee requests the Government to specify the extent to which this option is taken into account in the introduction of the various elements that make up the national social protection floor, with an indication of the manner in which the new social protection mechanisms are articulated with the existing social security system. More particularly, with regard to the elements intended to ensure basic income security for persons over 65 years of age (Part IV (old-age benefit)) and basic income security for families with dependent children (part VII (family benefit)), the Committee invites the Government to consider the options envisaged in Articles 27(c) and 41(c) of the Convention, read in conjunction with Article 67.***

Niger

C154 - Collective Bargaining Convention, 1981 (No. 154)

Observation 2016

Article 5 of the Convention. Promotion of collective bargaining. In its previous comments, the Committee recalled that the right of trade unions to sit on advisory bodies was not sufficient to give effect to the right to collective bargaining recognized by the Convention, and it requested the Government to provide copies of collective agreements concluded in the public sector. The Committee notes with ***satisfaction*** the Government's indication that protocol agreements have been concluded with the social partners in several sectors and notes that copies of four collective agreements have been provided: (i) the protocol agreement between the Government and workers' trade union confederations on strict compliance with freedom of association by all employers, the provision of headquarters premises and a subsidy for all trade union confederations, the adjustment of pensions, a general wage increase of 10 per cent at all levels, the ratification of ILO Conventions on occupational safety and health and other matters of a general nature; (ii) the protocol agreement with the Administration responsible for Mining and Industrial Development and the National Union of Employees of the Administration Responsible for Mining and Energy (SYNPAMINE) on the wage system, the plan for the training of officials in the sector and the payment of the financial effects of promotion; (iii) the protocol agreement between the Government and the Confederation of Workers of Niger (ITN) on the reduction in the price of water and electricity, a substantial increase in the wages of all employees in the public, para-public and private sectors, the system of bonuses and indemnities for state employees, the judicial reform affecting the labour tribunal and other matters of a general nature; and (iv) the protocol agreement between the Government of the Republic of Niger and the Single Federation of Education Unions of Niger concerning the adoption of specific regulations for education personnel, the payment of wages of contractual teachers upon completion of their contracts, the completion of the payment of the financial effects of promotion, re classification and various indemnities, and other specific claims in the education sector. The Government adds that collective bargaining on wages resulted in a significant increase in wages which takes into account the cost of living and has contributed to a more peaceful social climate. ***The Committee notes the Government's observations and invites it to continue taking measures, in consultation with the social partners, to encourage and promote collective bargaining in all the branches of economic activity covered by the Convention, including the public sector.***

Promotion of collective bargaining by public servants engaged in the administration of the State. The Committee recalls that it has not been informed of specific legislative provisions guaranteeing the right to collective bargaining of public servants engaged in the administration of the State, who are governed by a specific legislative statute or regulations, and are accordingly excluded from the application of section 252 of the Labour Code. ***In light of the collective agreements referred to by the Government, which concern public employees, the Committee invites the Government to ensure that the legislation in force is in accordance with practice in relation to the recognition and exercise of the right to collective bargaining for public servants engaged in the administration of the State.***

Nigeria

Nigeria

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee takes note of the Government's indication that an issue highlighted by the International Trade Union Confederation (ITUC) in 2010 (storming of a trade union meeting by a combined team of army, police and the security services) has been solved through the conciliation procedure provided by the Trade Dispute Act. ***The Committee trusts that the Government will continue to make all efforts to ensure that the rights of workers' and employers' organizations are exercised in a climate that is free from violence, pressure or threats of any kind against the leaders and members of these organizations. The Committee also takes note of the ITUC's observations received on 31 August 2016 and requests the Government to provide its comments in this regard, as well as a more detailed reply in relation to the specific allegations made by the ITUC in 2015 (denial of the right to join trade unions; mass persecution of union members; arrests and other violations).***

The Committee recalls the observations submitted by Education International (EI) and the Nigeria Union of Teachers (NUT) in 2012 according to which teachers in federal educational institutions have been coerced to join the Association of Senior Civil Servants of Nigeria (ASCSN) and denied the right to belong to the professional union of their own choice. The Committee recalls that the dispute between the ASCSN and the NUT was referred to the Industrial Court of Nigeria. The Committee takes note of the Court's judgment of 20 January 2016, which indicates that teachers at the 104 Unity Colleges of Nigeria are employed by the Federal Civil Service Commission and, as civil servants, they are automatically members of the ASCSN. The judgment indicates that the right of choice of a trade union to join is not absolute, as section 8 of the Trade Unions Act provides that "the qualification for membership of a trade union which shall include the provision to the effect that a person shall not be eligible for membership unless he or she has been normally engaged in the trade or industry which the trade union represents". The Committee notes that the judgment indicates that any worker who wishes to disassociate from the ASCSN can write to the employer stating so and directing that the deduction of the check off dues be stopped and will then be able to join the NUT, if they so wish. In this respect, the Committee wishes to recall that, under *Article 2* of the Convention, workers should be free to establish and join organizations of their "own choosing". The Committee further recalls in this regard that any legislative imposition of membership to one trade union by branch of industry or by region is not compatible with the abovementioned Article of the Convention. ***The Committee requests the Government to provide information on the practical application of section 8 of the Trade Unions Act, including the frequency of workers exercising their option to disassociate from a legislatively assigned trade union and any complaints filed in this regard, and to take any necessary measures to ensure the full respect of the right of workers to establish and join organizations of their own choosing.***

The Committee also takes note of the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

Civil liberties. The Committee notes the Government's indication that it is still awaiting the final police report, as well as the record of judicial proceedings, in relation to the prosecution of the eight suspects arrested in connection with the assassination of Mr Alhaji Saula Saka, the Lagos Zonal Chairman of the National Union of Road Transport Workers. ***The Committee requests the Government to provide detailed information on the results of the judicial proceedings, and, in case of conviction, on the nature and implementaion of the sentence.***

Organizing in export processing zones (EPZs). The Committee recalls that its previous comments related to issues of unionization and entry for inspection in the EPZs, as well as to the fact that certain provisions of the EPZ Authority Decree, 1992, make it difficult for workers to join trade unions as it is almost impossible for worker representatives to gain access to the EPZs. The Committee notes the Government's indication that a tripartite committee has been recently established under the chairmanship of the Federal Ministry of Labour and Employment to review and update the guidelines and to incorporate emerging trends in the world of work. ***The Committee welcomes the establishment of the tripartite committee and hopes that, in line with its comments, concrete measures will be taken in order to ensure that EPZ workers enjoy the right to establish and join organizations of their own choosing, as well as other guarantees under the Convention.***

Pending legislative issues

In its report, the Government acknowledges the comments that this Committee has been making for a number of years on pending legislative issues and indicates that the proposed review of the Labour Standard Bill will afford an opportunity to give a tripartite consideration to the Committee's comments. The Committee recalls the Government's indication in 2014 that five Labour Bills, drafted with the technical assistance of the Office, were before the National Assembly and had yet to be passed. ***The Committee once again urges the Government to take appropriate measures to ensure that the necessary amendments to the laws referred to below are adopted in the very near future in order to bring them into full conformity with the Convention.***

Article 2 of the Convention. Legislatively imposed trade union monopoly. In its previous comments, the Committee had raised its concern over the legislatively imposed trade union monopoly under section 3(2) of the Trade Union Act, which restricts the possibility of other trade unions from being registered where a trade union already exists. The Committee recalled that under *Article 2* of the Convention, workers have the right to establish and to join organizations of their own choosing without distinction whatsoever, and that it is important for workers to be able to establish a new trade union for reasons of independence, effectiveness or ideological choice. ***The Committee therefore once again requests the Government to take measures to amend section 3(2) of the Trade Union Act taking into account the aforementioned principles.***

Organizing in various government departments and services. In its previous comments, the Committee requested the Government to take measures to amend section 11 of the Trade Union Act, which denied the right to organize to employees in the Customs and Excise Department, the Immigration Department, the prison services, the Nigerian Security Printing and Minting Company Limited, the Central Bank of Nigeria, and Nigeria Telecommunications. The Committee had noted that the Collective Labour Relations Bill, pending before the lower chamber of Parliament, would address this issue. The Committee noted that the Collective Labour Relations Bill was still pending before the National Assembly. ***The Committee firmly trusts that the Collective Labour Relations Act amending section 11 of the Trade Union Act will be adopted in the near future. The Committee also requests the Government to send a copy of the Collective Labour Relations Act, once it is adopted.***

Minimum membership requirement. The Committee had previously expressed its concern over section 3(1) of the Trade Union Act requiring 50 workers to establish a trade union, considering that even though this minimum membership would be permissible for industry trade unions, it could have the effect of hindering the establishment of enterprise organizations, particularly in small enterprises. The Committee had noted the Government's statement that section 3(1)(a) applies to the registration of national unions, and that at the enterprise level, there is no limit on the number of people required to establish a trade union. The Committee noted the Government's indication that the country operates an industry-based system, and that workers in small enterprises form branches of the national union. ***The Committee once again requests the Government to take measures to amend section 3(1) of the Trade Union Act, so as to explicitly indicate that the minimum membership requirement of 50 workers does not apply to the establishment of trade unions at the enterprise level.***

Article 3. Right of organizations to organize their administration and activities and to formulate programmes without interference from the public authorities. Administration of organizations. In its previous comments the Committee had requested the Government to take measures to amend sections 39 and 40 of the Trade Union Act in order to limit the broad powers of the registrar to supervise the union accounts at any time, and to ensure that such a power was limited to the obligation of submitting periodic financial reports, or in order to investigate a complaint. The Committee noted the Government's statement that the Collective Labour Relations Bill that addressed this issue has yet to be passed. ***The Committee once again expresses the firm hope that the Collective Labour Relations Act will fully take into account its comments and will be adopted without delay.***

Activities and programmes. The Committee recalls that it had previously commented upon certain restrictions to the exercise of the right to strike (section 30 of the Trade Union Act, as amended by section 6(d) of the Trade Union (Amendment) Act, imposing compulsory arbitration, requiring a majority of all registered union members for calling a strike, defining "essential services" in an overly broad manner, containing restrictions relating to the objectives of strike action and imposing penal sanctions including imprisonment for illegal strikes; and section 42 of the Trade Union Act, as amended by section 9 of the Trade Union

(Amendment) Act, outlawing gatherings or strikes that prevent aircraft from flying or obstruct public highways, institutions or other premises). The Committee noted that the Government's indication that: (i) the right to strike of workers is not inhibited; (ii) the Collective Labour Relations Bill has taken care of the issue of essential services; (iii) in practice, trade union federations go on strike or protest against the Government's socio-economic policies without sanctions; and (iv) section 42 as amended only aims at guaranteeing the maintenance of public order. ***The Committee once again requests the Government to indicate the measures taken or envisaged in respect of the abovementioned provisions of the Trade Union Act as amended by the Trade Union (Amendment) Act.***

Article 4. Dissolution by administrative authority. In its previous comments, the Committee had requested the Government to take measures to amend section 7(9) of the Trade Union Act by repealing the broad authority of the Minister to cancel the registration of workers' and employers' organizations, as the possibility of administrative dissolution under this provision involved a serious risk of interference by the public authority in the very existence of organizations. The Committee noted that the Government reiterated that the issue had been addressed by the Collective Labour Relations Bill which was before the National Assembly. ***The Committee once again expresses the firm hope that the Collective Labour Relations Act will be enacted without further delay and adequately address the issue.***

Articles 5 and 6. Right of organizations to establish federations and confederations and to affiliate with international organizations. The Committee had noted that section 8(a)(1)(b) and (g) of the Trade Unions (Amendment) Act 2005 requires federations to consist of 12 or more trade unions in order to be registered. The Committee noted that according to section 1(2) of that the Trade Unions (International Affiliation) Act of 1996, the application of a trade union for international affiliation shall be submitted to the Minister for approval. The Committee considered that legislation that requires that government permission be obtained for the international affiliation of a trade union is incompatible with the principle of free and voluntary affiliation of trade unions with international organizations. With regard to the requirement in section 8(a)(1)(b) and (g) of the Trade Unions (Amendment) Act 2005 that federations shall consist of 12 or more trade unions, the Committee recalled that the requirement of an excessively high minimum number of trade unions to establish a higher level organization conflicts with *Article 5.* ***The Committee once again requests the Government to take the necessary measures to amend sections 8(a)(1)(b) and (g) of the Trade Unions (Amendment) Act 2005 and section 1 of the 1996 Trade Unions (International Affiliation) Act, so as to provide for a reasonable minimum number of affiliated trade unions in order not to hinder the establishment of federations, and to ensure that the international affiliation of trade unions does not require government permission.***

C088 - Employment Service Convention, 1948 (No. 88)

Observation 2016

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

Contribution of the employment service to employment promotion. The Government indicates that services rendered by the Employment Exchanges and the Professional and Executive Registries are free of charge. It further reports that there are 42 employment exchange offices and 17 Professional and Executive Registries spread over 36 states and the Federal Capital Territory. In 2011, a total of 5,896 applicants were registered with the Employment Exchanges, the Professional and Executive Registries, the National Labour Electronic Exchange (NELEX), and the National Directorate of Employment Job Centres. Of these, 329 applicants were placed in employment out of 383 vacancies notified. According to the Government's report, sections 23–25 of the Labour Act regulate the activities of private employment agencies. The Government also refers to its National Employment Policy which is a product of tripartite consultation. The Committee recalls that the public employment service is one of the necessary institutions for the achievement of full employment. In conjunction with the Employment Policy Convention, 1964 (No. 122), and the Private Employment Agencies Convention, 1997 (No. 181), The Convention forms a necessary building block for employment growth (General Survey concerning employment instruments, 2010, paragraphs 785–790). ***The Committee requests the Government to provide information on the impact of the measures taken to ensure that sufficient employment offices are established to meet the specific needs of employers and jobseekers in each of the geographical areas of the country. The Committee also requests the Government to include information on the National Employment Policy and other measures taken to build institutions for the realization of full employment and encourages the social partners to consider the possibility of ratifying Convention No. 122, a significant instrument from the viewpoint of governance. The Government is asked to include statistical information published in annual or periodical reports on the number of Employment Exchanges and Professional and Executive Registries established, applications for employment received, vacancies notified and persons placed in employment by such offices.***

Articles 4 and 5 of the Convention. Consultations with the social partners. ***The Committee requests the Government to provide details of the consultations held in the National Labour Advisory Board on the organization and operation of the Employment Exchanges and the Professional and Executive Registries and the development of employment service policy.***

Article 6. Organization of the employment service. The Government indicates that jobseekers and private employment agencies make use of the instruments and tools available at NELEX for job advertisements and placements. ***The Committee requests the Government to describe the manner in which the Employment Exchanges and the Professional and Executive Registries are organized and the activities which they perform in order to carry out effectively the functions listed in the Convention.***

Article 7. Activities of the employment service. The Government intended that the Employment Exchanges and the Professional and Executive Registries are open to all applicants of all occupations and industries. ***The Committee requests the Government to provide information on the results of the measures taken by the employment service concerning the various occupations and industries, as well as particular categories of jobseekers, such as workers with disabilities.***

Article 8. Measures to assist young persons. In addition to the measures implemented by NELEX, the Employment Exchanges and the Professional and Executive Registries, the Government indicates that it has established the National Directorate of Employment (NDE) and the National Poverty Eradication Programme (NAPEP) to assist young persons in finding suitable jobs. ***The Committee requests the Government to provide information on the measures adopted by the employment service to assist young persons in finding suitable employment.***

Article 10. Measures to encourage full use of employment service facilities. The Government indicates that a workshop on NELEX was organized in 2009 with the social partners and it resulted in an endorsement as an employment service facility. ***The Committee requests the Government to continue to provide information on the measures proposed by the employment service, with the cooperation of the social partners, to encourage the full use of employment service facilities.***

Article 11. Cooperation between public and private employment agencies. The Government indicates that training of key officials of private employment agencies has been organized in 2007 and 2010. ***The Committee requests the Government to indicate the specific measures taken to ensure effective cooperation between the public employment service and private employment agencies.***

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

Nigeria

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Articles 1 and 3 of the Convention. Discrimination based on sex with regard to employment in the police force. For many years, the Committee has been drawing attention to the discriminatory nature of sections 118–128 of the Nigeria Police Regulations, which provide for special recruitment requirements and conditions of service applying to women. Specifically, it had noted that the criteria and provisions relating to pregnancy and marital status contained in sections 118, 124 and 127 constitute direct discrimination, and that sections 121, 122 and 123 on duties that women police officers could perform were likely to go beyond what is permitted under *Article 1(2)* of the Convention. The Committee also noted that legal provisions establishing common height for admission to the police were likely to constitute indirect discrimination against women. Accordingly, the Committee has urged the Government to bring its legislation in conformity with the Convention. The Committee notes the Government's very general reply that the police hierarchy has little room to address the concerns of the Committee without breaching the Police Act of 1967, and that the Federal Character Commission (responsible for fairness and equity in the distribution of public posts) has therefore addressed this issue through advocacy. ***Recalling once again that each member for which this Convention is in force, in accordance with Article 3(c), is under the obligation to repeal any statutory provisions which are contrary to equality of opportunity and treatment, the Committee urges the Government to bring the Nigeria Police Regulations of 1968 into conformity with the Convention without delay, and to indicate the measures taken to this end.***

The Committee notes from the Government's periodic report to the United Nations Committee on the Elimination of Discrimination against Women that the Government has developed a Gender Policy for the Nigerian Police (CEDAW/C/NGA/7-8, 11 January 2016, paragraph 3.10). While welcoming this initiative, the Committee emphasizes that *Article 3(d)* of the Convention requires Governments to ensure the observance of the national equality policy in employment under the direct control of a national authority, including the police, and recalls that exclusions or preferences in respect of a particular job in the context of *Article 1(2)* of the Convention should be determined objectively without reliance on stereotypes and negative prejudices about men's and women's roles (2012 General Survey on the fundamental Conventions, paragraph 788). ***The Committee requests the Government to provide a copy of the Gender Policy for the Nigerian Police, as well as specific information on its implementation and impact, including any measures to address stereotypes and negative prejudices about the role of men and women in the labour market.***

Articles 1 and 2. Legislation. The Committee notes that, for more than ten years, the Government has been indicating that the Labour Standards Bill of 2008, which would include provisions on equality of opportunity and treatment, is yet to be adopted. ***The Committee firmly hopes that real progress will be made in adopting legislation that is in accordance with the Convention, prohibiting direct and indirect discrimination in employment and occupation, including in respect of recruitment, on all the grounds listed in Article 1(1)(a) of the Convention, and any other appropriate grounds as envisaged under Article 1(1)(b). In this context, the Committee also stresses the importance of enacting provisions to prevent and prohibit sexual harassment in the workplace, which is a serious manifestation of sex discrimination, and requests the Government to provide information on any progress made in this regard.***

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

Nigeria

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

Nigeria

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the Government's report dated 24 August 2016 as well as of the detailed discussion which took place at the 105th Session of the Conference Committee on the Application of Standards in June 2016, concerning the application by Nigeria of the Convention. The Committee notes that the Conference Committee expressed concern with the insufficient steps taken by the Government to apply the Convention in law and practice and encouraged the Government to adopt a constructive attitude.

Article 2(1) of the Convention. Scope of application. 1. *Self-employment and work in the informal economy.* The Committee previously noted that according to section 2 of the Labour Standards Bill of 2008 (Labour Standards Bill), the Labour Act applies to all employees. An "employee", according to section 60 of the Bill, means any person employed by another under oral or written contract of employment whether on a continuous, part-time, temporary or casual basis and includes a domestic servant who is not a member of the family of the employer. The Committee observed that children working outside a formal labour relationship, such as children working on their own account or in the informal economy are excluded from the provisions giving effect to the Convention. In this regard, the Committee noted from the document on the National Policy on Child Labour, 2013, that child labour is more prevalent in the informal sector which includes crafts and artisanal work and street-related activities as well as in semi-formal sectors which includes activities in commercial agricultural plantations, domestic and hospitality services, the transport industry, and garments manufacturing. The Committee requested the Government to take the necessary measures to ensure that all children, including self-employed children and children working in the informal economy, benefit from the protection laid down in the Labour Act. It requested that the Government review the relevant provisions of the Labour Standards Bill as well as take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy with a view to ensuring such protection in this sector.

The Committee notes the statement made by the Government representative of Nigeria to the Conference Committee that the Government had commenced the process of withdrawing the Labour Standards Bill, which was pending before the National Assembly, for further revision. The Government representative further indicated that this revision would be done in consultation with the social partners and will take into consideration the issues relating to ensuring protection for all working children, including self-employed children and children working in the informal economy, as well as provisions to strengthen the capacity and expand the reach of the labour inspectorate to the informal economy. In this regard, the Committee notes the Government's information in its report that programmes and workshops related to labour inspection in the informal economy are being carried out. ***The Committee urges the Government to take the necessary measures to revise the Labour Standards Bill thereby ensuring protection for all working children, including self-employed children and children working in the informal economy. It requests that the Government provide information on any progress made in this regard. It further requests that the Government provide information on the measures taken with regard to strengthening the capacity and expanding the reach of the labour inspectorate to the informal economy.***

2. *Minimum age for admission to work.* The Committee previously noted with concern the various minimum ages, some of them too low, prescribed by the national legislation. It noted that section 8(1) of the Labour Standards Bill prohibits the employment of a child (defined as persons under the age of 15 years (section 60)), in any capacity, except where he/she is employed by a member of his/her family on light work of an agricultural, horticultural or domestic character. The Committee observed that section 8(1) which establishes a minimum age of 15 years for employment or work as specified at the time of ratification is in conformity with *Article 2(1)* of the Convention. ***The Committee urges the Government to take the necessary measures to ensure that the Labour Standards Bill, which establishes a minimum age of 15 years for employment or work, is adopted in the near future. It requests the Government to provide information on any progress made in this regard.***

Article 3(2). Determination of hazardous work. The Committee previously noted from a report entitled "List of Hazardous Child Labour in Nigeria, 2013", by the Federal Ministry of Labour and Productivity, that a study was conducted to identify and determine the most hazardous conditions to which children under 18 years are exposed in various occupations in Nigeria. The study identified certain hazardous types of work including agriculture (cocoa and rice farming), quarrying, artisanal mining, traditional tie and dye, processing of animal skin, domestic services, scavenging and recycling collection, street work, begging, construction and transport works.

The Committee notes that at the Conference Committee the Government representative of Nigeria stated that the "List of Hazardous Child Labour in Nigeria", which provided maximum protection for children from extremely hazardous working conditions, has been adopted. The Committee notes with ***concern*** that the copy of the hazardous list, which the Government representative of Nigeria was referring to and which has been sent along with its recent report, was not a regulation prohibiting hazardous types of work, but a study that was conducted by a sub-technical committee set up by the National Steering Committee to identify the most hazardous conditions to which children under 18 years are exposed in Nigeria. The report based on the study, in its recommendations, states that "the urgent need to prohibit the involvement of children in identified tasks/activities should be accorded priority". The Committee further notes the information from the ILO–IPEC that the final list of hazardous work identified in the study has been validated by the National Steering Committee and is currently awaiting official endorsement. ***The Committee therefore urges the Government to take the necessary measures, without delay, to ensure that the list of types of hazardous child labour, identified by the sub-technical committee set up by the National Steering Committee, is adopted, thereby prohibiting hazardous types of work to children under 18 years. It requests that the Government provide information on the progress made in this regard.***

Article 6. Apprenticeship. The Committee previously noted that section 49(1) of the Labour Act permitted a person aged 12–16 years to undertake an apprenticeship for a maximum period of five years while section 52(a) and (e) empowered the Minister to issue regulations on the terms and conditions of apprenticeship. It observed that sections 46 and 47 of the Labour Standards Bill of 2008 lay down the terms and conditions for entering into a contract of apprenticeship, but do not specify a minimum age for apprenticeship.

The Committee notes the statement made by the Government representative to the Conference Committee that the revision of the Labour Standards Bill will establish a minimum age of *14 years* for apprenticeship programmes. ***The Committee urges the Government to take the necessary measures to ensure that the Labour Standards Bill will be revised in the near future and that a minimum age of 14 years for apprenticeship programmes will be established so as to be in conformity with Article 6 of the Convention. It requests that the Government provide information on any progress made in this regard.***

Article 7(1). Minimum age for admission to light work. The Committee previously observed that the Labour Act did not provide for a minimum age for admission to light work. It also noted that section 8 of the Labour Standards Bill, while allowing the employment of children under the age of 15 years in light work of an agricultural, horticultural or domestic character, does not indicate the lower minimum age at which such work may be permitted. In this regard, the Committee noted that according to the Multiple Indicator Cluster Survey Report of 2011 (UNICEF–National Bureau of Statistics, Nigeria), 47 per cent of children aged between 5 and 14 years are engaged in child labour. It reminded the Government that, according to *Article 7(1)* of the Convention, national laws or regulations may permit children aged 13–15 years to perform light work which is: (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority, or their capacity to benefit from the instruction received.

The Committee notes the statement made by the Government representative to the Conference Committee that the revision of the Labour Standards Bill would fix the lower minimum age of 13 years for admission to light work. ***The Committee accordingly urges the Government to take the necessary measures to ensure that the revision of the Labour Standards Bill will establish a minimum age of 13 years for admission to light work, in conformity with Article 7(1) of the Convention.***

Article 7(3). Determination of light work. In its previous comments, the Committee observed that the conditions in which light work activities may be

undertaken and the number of hours during which such work may be permitted were not clearly defined in the Labour Act. It also observed that the maximum working hours of eight hours a day prescribed under section 59(8) of the Labour Act would necessarily prejudice the attendance of young persons below the age of 15 years at school or vocational orientation or training programmes as laid down under *Article 7(1)(b)* of the Convention. It noted that the Labour Standards Bill did not contain any provision regulating the employment of children in light work. The Committee drew the Government's attention to Paragraph 13(b) of the Minimum Age Recommendation, 1973 (No. 146), which states that, in giving effect to *Article 7(3)* of the Convention, special attention should be given to the strict limitation of the hours spent at work in a day and in a week, and the prohibition of overtime, so as to allow enough time for education and training, for rest during the day and for leisure activities.

The Committee notes the statement made by the Government representative that the revision of the Labour Standards Bill will ensure that the light work activities by children of 13 years is regulated. ***The Committee accordingly urges the Government to take the necessary measures, during the revision of the Labour Standards Bill, to regulate the employment of persons between 13 and 15 years of age in light work, by determining the number of hours during which, and the conditions in which, light work in the agricultural, horticultural and domestic sectors may be undertaken, as well as the types of activities that constitute light work. It requests that the Government provide information on the measures taken in this regard.***

Application of the Convention in practice. In its previous comments, the Committee noted from the ILO–IPEC report of 2014 that various activities were undertaken within the ECOWAS-II project to combat child labour. It also noted from the ILO–IPEC report that a baseline survey on child labour in artisanal and small-scale mining conducted in 2011 in seven states indicated an increasing involvement of children in these sectors. The Committee further noted that according to a report entitled "The twin challenges of child labour and educational marginalization in the ECOWAS region" by Understanding Children's Work, a joint ILO–UNICEF–World Bank interagency research cooperation project, among the ECOWAS countries, Nigeria has the largest number of 5–14 year olds in child labour with 10.5 million children involved in child labour. The Committee expressed its deep concern at the large number of children under the minimum age for admission to employment who are working in Nigeria. ***Noting the absence of information in the Government's report on this point, the Committee urges the Government to strengthen its efforts to ensure the elimination of child labour. It requests that the Government provide information on the manner in which the Convention is applied in practice, including updated statistical data on the employment of children and young persons, especially regarding children working in the informal economy, as well as extracts from the reports of inspection services and information on the number and nature of violations detected and penalties applied. To the extent possible, this information should be disaggregated by age and sex.***

The Committee expresses the hope that the Government will take into consideration the Committee's comments while revising the Labour Standards Bill. It further expresses the firm hope that the revised Bill will be adopted in the near future. The Committee invites the Government to avail itself of ILO technical assistance in order to bring its legislation into conformity with the Convention.

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

[The Government is asked to reply in full to the present comments in 2017.]

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

Observation 2016

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

Consultations with representative organizations. The Committee recalls that it is important for employers' and workers' organizations to enjoy the right to freedom of association, without which there could be no effective system of tripartite consultation. ***The Committee asks the Government to report on the results of the legislative reform and its impact on the improvement of consultations with representative organizations that enjoy freedom of association, as required under this Convention.***

Tripartite consultations required by the Convention. The Government indicates in its report that its replies to questionnaires concerning items on the agenda of the International Labour Conference and comments on proposed texts are usually forwarded to the social partners for their input. It also states that social partners participate in the rendering of reports. The Committee recalls that the tripartite consultations covered by the Convention are essentially intended to promote the implementation of international labour standards and concern, in particular, the matters enumerated in *Article 5(1) of the Convention.* ***The Committee therefore requests the Government to provide full and detailed information on the content and outcome of tripartite consultations dealing with:***

·(a) the Government's replies to questionnaires concerning items on the agenda of the Conference and the Government's comments on proposed texts to be discussed by the Conference; and

·(b) questions arising out of reports to be made to the International Labour Office under article 22 of the ILO Constitution.

Prior tripartite consultations on proposals made to the National Assembly. ***The Committee hopes that the Government and the social partners will examine the measures to be taken with a view to holding effective consultations on the proposals made to the National Assembly when submitting the instruments adopted by the Conference, as required by the Convention.***

Operation of the consultative procedures. ***The Committee once again requests the Government to indicate whether, in accordance with Article 6, the representative organizations have been consulted in the preparation of an annual report on the working of the consultation procedures provided for in the Convention and, if so, to indicate the outcome of these consultations.***

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

Rwanda

C081 - Labour Inspection Convention, 1947 (No. 81)

Observation 2016

The Committee notes that the Government's report has not been received. It must therefore bound to repeat its previous comments.

Articles 4, 6, 7, 10, 11 and 16 of the Convention. Application of the Convention in the context of the decentralization of labour inspection. Organization and functioning of the labour inspection system. The Committee refers to its previous observations in which it expressed concern at the impact of the decentralization of the public administration on the organization and functioning of the labour inspection system. In this regard, the Committee observed that the arrangements of the decentralization, characterized by a general and chronic inadequacy of resources, ran the risk of resulting in the absence of a single labour inspection policy throughout the national territory in relation to: (i) the planning of inspections and communication between labour inspectorates in different areas; (ii) the recruitment and training of labour inspectors; and (iii) the allocation of human and financial resources. With regard to this latter point, the Committee previously noted that the budget allocated for labour inspectors was coordinated by the central authority in cooperation with the districts.

In its report, the Government indicates that the budget allocated for each district is based on the number of establishments identified in each of the districts by the establishment census carried out by the National Institute of Statistics of Rwanda (NISR) in 2011. However, the Government adds that the Ministry of Public Service and Labour allocates the districts a budget of 2 million Rwandan francs (RWF) (around US$2,877) for the needs of labour inspectors to carry out their functions, including conciliation. The Government also indicates that consultations are held each year with stakeholders within the framework of the adoption of the national budget.

The Committee also notes that, within the framework of the administrative reform, labour inspectors are now recruited at the district level in accordance with local recruitment procedures. According to the Government's report, each of the 30 districts currently has one labour inspector and coordination is ensured at the national level by two chief labour inspectors. Finally, under the terms of article 2 of Ministerial Order No. 7 of 13 July 2010, labour inspectors receive policy guidance and technical support from the Ministry of Public Service and Labour, but their daily activities are supervised by the prefect or district mayor.

In light of these elements, the Committee wishes to emphasize once again the importance of the inspection system coming under a central authority, as required by *Article 4* of the Convention, in order to facilitate the adoption and implementation of a uniform policy throughout the national territory and to allow a rational distribution of the available resources between inspection services based on identical criteria throughout the territory, thereby ensuring the same level of protection for all the workers covered. The Committee notes that the census carried out by the NISR in 2011 with a view to determining the number of establishments in each district constitutes a positive development towards the preparation of a register of enterprises which can provide inspectors with information on inspection needs and the workplaces to be targeted, and accordingly facilitate better planning of inspections. Nevertheless, the Committee notes the continuing uncertainties regarding the adequacy of the budgetary resources available and labour inspection needs, particularly with regard to the number and distribution of labour inspectors throughout the territory and the material resources made available to them for the effective discharge of their functions, as required by *Articles 10, 11* and *16* of the Convention. The Committee also notes that the Government's report does not provide any information on the measures taken to ensure the harmonization throughout the national territory of the conditions for the recruitment and training of labour inspectors and to guarantee them uniform status and conditions of service, in accordance with the principles of *Articles 6* and *7* of the Convention.

The Committee requests the Government to provide detailed information on the measures that have been taken or are envisaged to ensure coherence in the functioning of the labour inspection system at the national level, with particular reference to:

·(a) harmonization of conditions for the recruitment and training of labour inspectors and uniformity at the national level in their status and conditions of service;

·(b) the coordination and supervision of the activities of district labour inspectors by chief labour inspectors;

·(c) the planning at the central level of inspections, including any initiative taken for the establishment of a national register of enterprises.

The Committee also requests the Government to clarify the manner in which the budget allocated for labour inspectors in each district is determined, with an indication of whether it is a fixed amount (RWF 2 million), as suggested by the Government's report, or whether the specific needs of each district in terms of inspection are taken into account (the number, nature, size and geographical distribution of workplaces liable to inspection, the number and diversity of the categories of workers engaged therein, the number and complexity of the legal provisions to be enforced, etc.) and, if so, to indicate the criteria applied.

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

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

Rwanda

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, concerning matters relating to the application of the Convention. ***The Committee requests the Government to provide its comments in this regard.*** The Committee also notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature.

Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish organizations of their own choosing. Registration procedures. The Committee notes Ministerial Order No. 11 of 7 September 2010, communicated by the Government, determining the conditions and procedures for the registration of workers' unions and employers' organizations.

·-*Judicial record.* Under the terms of section 3(5) of Ministerial Order No. 11, an occupational organization of employers or workers, in order to be registered, has to be able to prove that its representatives have never been convicted of offences with sentences of imprisonment equal to or over six months. In the view of the Committee, conviction on account of offences the nature of which is not such as to call into question the integrity of the person concerned and is not such as to be prejudicial to the exercise of trade union functions should not constitute grounds for disqualification from holding trade union office.

·-*Time limits for registration.* Under the terms of section 5 of Ministerial Order No. 11, the authorities have a time limit of 90 days to process the application for the registration of a trade union. The Committee recalls that a long registration procedure is a serious obstacle to the establishment of organizations without previous authorization, in accordance with *Article 2* of the Convention.

The Committee requests the Government to review the provisions referred to above with a view to their amendment to ensure that the procedure for the registration of employers' and workers' organizations is fully in conformity with the Convention.

Right of public servants to join a union of their own choosing. In its previous comments, the Committee noted Act No. 86/2013, of 19 September 2013, on the General Statute of Public Servants, section 51 of which recognizes the right of public servants to join a union or their own choosing. ***In the absence of information on this matter, the Committee once again requests the Government to provide information on the recognition of the right of public servants to establish their own unions in law and in practice, and on their other rights under the Convention.***

Article 3. Right of organizations to freely organize their activities and to formulate their programmes. In its previous comments, the Committee noted that, under the terms of section 124 of the Labour Code, any organization requesting recognition as the most representative organization has to authorize the labour administration to check the register of its members and assets. The Government indicated in this regard that this requirement would be removed from the labour legislation. ***Noting the Government's statement that the process of revising the Labour Code has not yet been completed, the Committee requests the Government to provide a copy of the text, once it has been adopted, which removes from the Labour Code the requirement for the verification of the register of assets.***

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

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference. In its previous comments, the Committee requested the Government to take steps to establish sufficiently dissuasive penalties for acts of anti-union interference and discrimination, particularly concerning the amount of legal compensation of trade union members. The Committee noted that, according to the provisions of section 114 of the new Labour Code (Act No. 13/2009), any act which infringes the provisions providing protection against acts of discrimination and interference should constitute an offence and incur the payment of damages. The amount of damages applicable for acts of anti-union discrimination against trade union members or officials is not, however, specified in the Act. The Committee notes that the Government reiterates that this matter will be duly taken into account during the current revision of the Labour Code. ***Recalling that it is important that the forthcoming version of the Labour Code covers all acts of anti-union interference and discrimination and that it provides for sufficiently dissuasive penalties, the Committee requests the Government to provide information on any new developments in this regard and to send a copy of the Labour Code once it has been adopted.***

Article 4. Promotion of collective bargaining. Referring to its previous comments concerning compulsory arbitration in the context of collective bargaining, the Committee noted that the collective bargaining dispute settlement procedure provided for in section 143 ff. of the Labour Code culminates, in cases of non-conciliation, in referral, at the initiative of the labour administration, to an arbitration committee whose decisions may be the subject of an appeal to the competent jurisdiction, whose decision shall be binding. The Committee once again recalls that, in order to preserve the principle of voluntary negotiation recognized by the Convention, compulsory arbitration is only acceptable in certain specific conditions, such as in essential services in the strict sense of the term, in the case of disputes involving public servants engaged in the administration of the State (*Article 6* of the Convention), or in the case of an acute national crisis. ***Noting the Government's statement that its comments will be duly taken into account, the Committee trusts that the Government will take the necessary measures to amend the legislation in such a way that, except in the circumstances referred to above, a collective labour dispute in the context of collective bargaining may be submitted to arbitration or to the competent legal authority only with the agreement of both parties.***

Moreover, with reference to its previous comments, the Committee noted that section 121 of the Labour Code provides that, at the request of a representative organization of workers or employers, the collective agreement shall be negotiated within a joint committee convened by the Minister of Labour or his or her delegate or representatives of the labour inspection participating as advisers. In the absence of any new information from the Government on this matter, the Committee recalls that such a provision may restrict the principle of free and voluntary negotiation of the parties established by the Convention. ***The Committee once again requests the Government to take the necessary measures to amend section 121 of the Labour Code so as to ensure that the parties can freely determine the modalities of collective bargaining and in particular that they can decide as to whether or not a representative of the labour administration may be present.***

With regard to the question of the extension of collective agreements, the Committee in its previous observations noted that, under section 133 of the Labour Code, at the request of a representative workers' or employers' organization, whether or not it is a party to the agreement or on its own initiative, the Minister of Labour may make all or some of the provisions of a collective agreement binding on all employers and workers covered by the occupational and territorial scope of the agreement. The Committee notes the Government's reiteration that, in practice, the extension of a collective agreement is possible only subject to in-depth tripartite consultations. ***The Committee requests the Government to indicate the institutional framework in which these tripartite consultations take place, and to provide information on recent extension procedures.***

Collective bargaining in practice. ***Noting the Government's statement that it is committed to promoting collective bargaining, the Committee trusts that measures will be taken in this direction and that the Government will provide information on the National Labour Council's activities in the field of collective bargaining and on the number of collective agreements concluded, the sectors concerned and the number of workers covered.***

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

Articles 1(b) and 2 of the Convention. Equal remuneration for work of equal value. Legislation. The Committee recalls that the definition of the expression "work of equal value" which appears in section 1.9 of Law regulating Labour No. 13/2009 of 27 May 2009 refers only to "similar work" and is therefore too narrow to fully implement the principle of the Convention. It also recalls that this law does not contain any substantial provisions prescribing equal remuneration for men and women for work of equal value and the Constitution only refers to "the right to equal wage for equal work". The Committee notes that the Government continues to repeat that, in practice, there is no discrimination between men and women with regard to remuneration, and that full legislative expression will be given to the principle of equal remuneration for men and women for work of equal value in the ongoing revision process of Law No. 13/2009. The Government also indicates that the revision will also address the linguistic differences between the Kinyarwanda and English versions of section 12. The Committee once again refers to paragraphs 672–679 of its General Survey of 2012 on the fundamental Conventions explaining the meaning of the concept of "work of equal value" which not only covers "equal", the "same" or "similar" work but also addresses situations where men and women perform different work that is nevertheless of equal value. ***Noting that no progress has been made in this respect for a number of years, the Committee urges the Government to take the necessary steps without delay to amend Law No. 13/2009 of 27 May 2009 regulating Labour, including sections 1.9 and 12, so as to give full legislative effect to the principle of equal remuneration for men and women for work of equal value.***

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

Rwanda

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Article 1 of the Convention. Protection against discrimination. Legislation. With regard to the scope of application of the legislation, the Committee notes the Government's reaffirmation that the prohibition of discrimination provided for in section 12 of Act No. 13/2009 of 27 May 2009 issuing labour regulations, covers all stages of employment, including recruitment. The Government indicates that the French version of this section, which prohibits discrimination "during employment", will be amended to avoid any confusion with regard to its scope of application. ***The Committee once again requests the Government to take the necessary steps to align the various linguistic versions of section 12 so that they explicitly prohibit any direct or indirect discrimination in employment and occupation in accordance with Article 1(3) of the Convention, namely with regard to access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.***

Discrimination on the basis of sex. Sexual harassment. In its previous comments, the Committee welcomed the adoption of Act No. 59/2008 of 10 September 2008 on the prevention and punishment of gender-based violence, and the inclusion in Act No. 13/2009 of provisions prohibiting "gender-based violence" in employment and direct or indirect moral harassment at work. While having noted that the combination of these legislative provisions covered the two essential elements of sexual harassment at work, as set out in its 2002 general observation, the Committee invited the Government to consider taking the necessary measures to adopt a clear and precise definition of sexual harassment in the workplace, ensuring that this definition covers both quid pro quo and hostile working environment sexual harassment. The Committee notes the Government's indication that a clearer and more precise definition of sexual harassment covering both quid pro quo and hostile working environment sexual harassment will be inserted into Act No. 13/2009 issuing labour regulations when it will be revised. ***The Committee trusts that the Government will soon be in a position to report progress in the revision process of Act No. 13/2009 and the adoption of new provisions covering the two forms of sexual harassment in employment and occupation. The Committee once again requests the Government to provide information on any measures taken to prevent and eliminate sexual harassment in the workplace (educational programmes, campaigns to raise awareness of appeal mechanisms, etc.).***

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

Sao Tome and Principe

C081 - Labour Inspection Convention, 1947 (No. 81)

Observation 2016

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

Article 6 of the Convention. Conditions of service of labour inspectors. The Committee notes that the Government has not provided in its last report further information on the plans to revise wages and reform professional careers, which the Government had announced in its 2007 report. Noting that the Committee has been raising the issue of improving salaries of labour inspectors since 2002, it would like to refer to paragraph 209 of its 2006 General Survey on labour inspection, where it is indicated that, although the Committee is aware of the severe budgetary restrictions governments often face, it is bound to emphasize the importance it places on the treatment of labour inspectors in a way that reflects the importance and specificities of their duties and that takes account of personal merit. ***The Committee once again expresses the hope that the Government will put in place measures to increase the wages paid to labour inspectors so as to attract and retain qualified personnel and safeguard such personnel from any undue influence. The Committee asks the Government to report on any measures taken or envisaged in this regard in its next report.***

Article 14. Information on industrial accidents and cases of occupational disease. The Committee notes that the Government has not provided the requested information concerning the measures taken to ensure that the labour inspectorate is informed of industrial accidents and cases of occupational diseases, following the commitment made by the Government in its 2007 report to undertake every possible effort in this regard. ***The Committee once again asks the Government to provide in its next report information on the procedures introduced and the specific measures taken to ensure that the labour inspectorate is informed of industrial accidents and cases of occupational diseases.***

Articles 19, 20 and 21. Reports on labour inspection activities. The Committee notes that no annual report on the work of the labour inspection services has been received by the Office. It further notes that the last statistical information on labour inspection visits (including information on recurrent violations) relates to the periods of 1985–87 and 1988–89, respectively, and that no annual report on the work of the labour inspection services within the meaning of the Convention containing information on all the subjects listed under *Article 21* has ever been received by the Office. The Committee emphasized, in its general observation made in 2010 that, when well prepared, the annual report offers an indispensable basis for the evaluation of the results in practice of the activities of the labour inspection services and, subsequently, the determination of the means necessary to improve their effectiveness. ***The Committee hopes that the Government will make every effort to ensure that an annual inspection report is published and sent to the ILO, within the time limits set out in Article 20 containing the information required by Article 21(a)–(g).***

The Committee asks the Government in any event to provide with its next report statistical information that is as detailed as possible (industrial and commercial places liable to inspection, number of inspections, violations detected and penalties imposed, statistics of industrial accidents and cases of occupational diseases, etc.). Noting the information provided by the Government, that inspection reports are drawn up following every inspection visit, the Committee believes that the central authority should be in a position to provide the majority of this information, and at least information on the number of inspection visits, the violations detected and legal provisions to which they relate, as well as on any follow-up measures taken.

The Committee reminds the Government that it may avail itself of ILO assistance in order to ensure that the central inspection authority fulfils its obligations under Articles 20 and 21.

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

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

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

Article 1 of the Convention. Work of equal value. Legislation. The Committee recalls its previous comments in which it noted that article 43(a) of the Constitution did not fully reflect the principle of the Convention as they refer to equal wages for "equal work" rather than "work of equal value". The Committee has therefore been emphasizing the need to take further legislative action to ensure full compliance with the Convention. The Committee notes that a draft General Labour Act has been prepared and submitted to the Office for comments. In this regard, the Committee recalls the importance of giving full legislative expression to the principle of the Convention, providing not only for equal remuneration for equal, the same or similar work, but also prohibiting pay discrimination that occurs in situations where men and women perform different work that is nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraph 679). ***Hoping that progress will be made soon in the adoption of the draft General Labour Act, the Committee requests the Government to ensure that the Act will give full legislative expression to the principle of equal remuneration for men and women for work of equal value with respect to all workers. The Committee also requests the Government, when the opportunity for amending relevant provisions of the Constitution arises, to take the necessary steps to amend article 43(a) of the Constitution.***

Article 4. Cooperation with workers' and employers' organizations. Since 2007, the Committee has been recalling the important role of workers' and employers' organizations with respect to giving effect to the provisions of the Convention. ***Noting that the Government has not responded to its previous request for information, the Committee therefore again asks the Government to seek the cooperation of these organizations with regard to the establishment of an appropriate legislative framework to apply the Convention, as indicated above, as well as with regard to practical measures to ensure equal remuneration for men and women for work of equal value. The Committee requests the Government to provide information on the progress made in this regard.***

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

Sao Tome and Principe

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Articles 1 and 2 of the Convention. Legislation. The Committee recalls the need to take the necessary measures to guarantee equality of opportunity and treatment in accordance with the Convention. In this context, the Committee has been requesting the Government to ensure that the draft General Labour Act, which was under preparation, would include a prohibition of direct and indirect discrimination at all stages of the employment process and on all the grounds listed in *Article 1(1)(a)* of the Convention. The Committee notes that a draft General Labour Act has been prepared and submitted to the International Labour Office for its comments. It further notes the Government's indication that the National Institute for the Promotion of Gender Equality and Equity (INPG) has participated in the elaboration of the draft General Labour Act. ***The Committee trusts that progress will be made soon in the adoption of the draft General Labour Act and requests the Government to ensure that the new General Labour Act will expressly define and prohibit direct and indirect discrimination, covering at least all the grounds listed in Article 1(1)(a) of the Convention, and all workers and aspects of employment and occupation.***

Articles 2 and 3. Equality of opportunity and treatment of men and women. Policies and institutions. The Committee previously noted that the Government had adopted a National Strategy for Gender Equality and Equity (2010), which also dealt with issues relating to women's equality in the world of work. The Government had also indicated that participation of women in education and vocational training was included among its priorities. The Committee notes the Government's indication that the INPG has been established under the Ministry of Labour. ***The Committee requests the Government to provide information on any recent National Strategy for Gender Equality and Equity adopted or envisaged; and on the specific measures taken, including by the INPG, to promote equality between men and women in access to vocational training and employment in the private and public sectors, and the results obtained by such action. The Committee further requests the Government to collect and provide statistical information on the participation of men and women in vocational training and the labour market, indicating their levels of participation in the different sectors and occupations.***

Article 3(b). Awareness raising. The Committee once again recalls the importance of educational programmes to raise awareness of the principle of equality of opportunity and treatment in employment and occupation. ***The Committee reiterates its requests to the Government to provide information on any action taken or envisaged to promote understanding and awareness of the principle of equality among workers and employers as well as society at large, including through cooperation with workers' and employers' organizations.***

C151 - Labour Relations (Public Service) Convention, 1978 (No. 151)

Observation 2016

The Committee notes with ***regret*** that the Government's report does not provide any response to the questions the Committee has raised in the comments it has been making for many years on the implementation of several essential provisions of the Convention. ***The Committee is, therefore, bound to reiterate them and urges the Government to take all the measures required on each of the following points.***

Article 4 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee previously noted the Government's indication that there is no legislation establishing penalties for acts of anti-union discrimination. ***The Committee once again requests the Government to take the necessary measures for the adoption of legislative provisions imposing sufficiently effective and dissuasive sanctions for acts of anti-union discrimination.***

Article 5. Adequate protection against acts of interference. The Committee previously noted that the legislation does not establish sanctions for acts of interference. ***The Committee once again requests the Government to take the necessary measures to adopt legal provisions imposing sufficiently effective and dissuasive sanctions for acts of interference against trade union organizations of public employees.***

Article 8. Settlement of collective disputes. The Committee previously noted that section 11 of the Act on Strikes provides for compulsory arbitration, but that the legislation does not establish any mechanism for mediation or conciliation in the event of a dispute between the parties. The Committee noted the Government's indication that matters relating to the mediation of disputes in the public administration fall within the remit of the Directorate of the Public Administration and not the Labour Directorate. ***The Committee once again requests the Government to provide additional information on the settlement of collective disputes in the public administration, and in particular to indicate whether the Act referred to above applies to employees of the public administration, and to provide detailed information on the mediation mechanisms that are under the responsibility of the Directorate of the Public Administration.***

Recalling that it may request the technical assistance of the Office, the Committee trusts that the Government will adopt the necessary measures in the near future.

Senegal

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

Observation 2016

Article 1(c) of the Convention. Imposition of sentences of imprisonment involving an obligation to work for breaches of labour discipline. The Committee previously emphasized the need to amend sections 624, 643 and 645 of the Merchant Shipping Code (Act No. 2002-22 of 16 August 2002). Under the terms of these provisions, unapproved absence from the vessel, verbal insults, gestures or threats towards a superior, or a formal refusal to obey a service order are punishable by imprisonment, which involves compulsory prison labour in accordance with section 692 of the Code of Penal Procedure and section 32 of Decree No. 2001-362 of 4 May 2001 on the execution and organization of penal sanctions. In view of the fact that the scope of the provisions of the Merchant Shipping Code mentioned above is not confined to cases in which the breach of discipline would endanger the ship or the life or health of persons on board, the Committee has considered these provisions to be contrary to the Convention, which prohibits recourse to forced labour, including in the form of compulsory prison labour, as a means of labour discipline. In this respect, the Government indicated that the merchant navy had itself considered excessive the penalties provided for and the violations penalized and that in practice penal sanctions were always disregarded in cases of breaches of discipline.

The Committee observes that the Government takes due note in its report of the observations made on the issue of the amendment of sections 624, 643 and 645 of the Merchant Shipping Act and that it undertakes to continue and firm up its efforts to bring the legislation into conformity with practice and with the Convention. The Committee notes with ***concern*** that it has been commenting on this matter for over 40 years and that the Government did not take the opportunity of the adoption of the new Merchant Shipping Code in 2002. ***The Committee accordingly expresses the firm hope that the necessary measures will finally be taken to amend the provisions referred to above of the Merchant Shipping Code so as to ensure that breaches of labour discipline which do not endanger the ship or the persons on board cannot be punished with prison sentences, under which prison labour may be imposed.***

Article 1(d). Imposition of sentences of imprisonment involving an obligation to work as punishment for participation in strikes. In its previous comments, the Committee referred to section L.276 of the Labour Code (under Title 13 on labour disputes), which allows the administrative authority to requisition workers from private enterprises and public services and establishments who are engaged in jobs that are essential for the security of persons and property, the maintenance of public order, the continuity of public services and the satisfaction of the essential needs of the nation. Any worker who does not comply with the requisition order is liable to a fine and a sentence of imprisonment of from three months to one year, or to only one of these penalties (section L.279(m)). The Committee noted that the Decree implementing section L.276, which was to establish the list of jobs concerned, was in the process of being adopted and that, in the meantime, Decree No. 72-017 of 11 March 1972 establishing the list of posts, jobs and functions of which the occupants may be requisitioned continued to be applicable. With reference to the comments made on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee emphasized that, pursuant to these provisions, the power to requisition workers may be exercised in respect of workers whose post, job or functions do not constitute essential services in the strict sense of the term, and that workers who do not comply with a requisition order are liable to imprisonment involving the obligation to work.

The Committee notes that the Decree to implement section L.276 has still not been adopted. The Committee notes the Government's reiterated statement of its willingness to take the necessary measures to bring the national legislation into conformity with the Convention and that the reform will be undertaken within the framework of dialogue with the social partners, without detriment to the general interest or the principle of the continuity of public services. In this regard, the Committee wishes to recall that, in all cases and irrespective of the legality of the strike action in question, any sanctions imposed should not be disproportionate to the seriousness of the violations committed, and that the authorities should not have recourse to measures of imprisonment against persons peacefully organizing or participating in a strike. ***The Committee requests the Government to take the necessary measures to ensure that the Decree implementing section L.276 of the Labour Code is adopted as soon as possible and limits the list of posts, jobs or functions of which the occupants may be subject to a requisition order to posts, jobs or functions that are strictly necessary to ensure the operation of essential services in the strict sense of the term.***

The Committee also previously emphasized the need to amend the last paragraph of section L.276 of the Labour Code, under the terms of which the exercise of the right to strike may not be accompanied by the occupation of the workplace or its immediate surroundings, under penalty of the sanctions set out in sections L.275 and L.279 (with the latter envisaging a sentence of imprisonment of from three months to one year and a fine, or one of these two penalties). ***The Committee once again expresses the firm hope that the necessary measures will be taken to amend the last paragraph of section L.276 and section L.279 of the Labour Code so as to ensure that striking workers who peacefully occupy the workplace or its immediate surroundings are not liable to prison sentences during which prison labour may be imposed.***

Senegal

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted the adoption and launching of the National Framework Plan for the Prevention and Elimination of Child Labour (PCNPETE). The PCNPETE provides for the organization of awareness-raising campaigns on the damage caused by child labour; the holding of capacity-building workshops for civil society, the social partners and the administration; the integration of action to combat child labour in sectoral policies and development programmes; the conduct of a national survey on child labour by 2014; expanding the provision of education and training; and reinforcing and harmonizing the national legal framework.

The Committee notes the Government's indication in its report that the national legal framework is being harmonized following the adoption of the PCNPETE and that draft texts are being prepared. The Government adds that a plan of action has been drawn up but that, in the absence of technical and financial partners, the budget has still not been mobilized. The Committee also notes, according to the concluding observations of the Committee on the Rights of the Child of 7 March 2016, that various new institutional and political measures, including the creation of a national inter-sectoral committee and departmental committees on child protection to coordinate the implementation of the National Strategy on Child Protection, and the adoption of a Programme for the Improvement of Quality, Equity and Transparency in the Education and Training Sector (2012–25) (CRC/C/SEN/CO/3-5, paras 5 and 11). The Committee further notes that, according to the ILO's 2014 publication "The twin challenges of child labour and educational marginalization in the ECOWAS region", the number of children between the ages of five and 14 years involved in employment is 510,420, or 14.9 per cent of children in Senegal. The Committee notes with ***concern*** the high number of children engaged in child labour in Senegal who have not reached the minimum age for admission to employment of 15 years. ***The Committee requests that the Government intensify its efforts to combat child labour. It requests that it provide information on the progress made with the legislative amendments and the results achieved through the PCNPETE, as well as the various projects implemented. Noting that no statistical study on child labour has been undertaken, the Committee also requests the Government to intensify its efforts to conduct a new national survey of child labour.***

Article 2(1). Minimum age for admission to employment or work. The Committee previously noted that section L.145 of the Labour Code allows exemptions from the minimum age for admission to employment by order of the Minister of Labour. The Government reiterated its commitment to review the provisions of the legislation with a view to making the necessary amendments and bringing it into conformity with the provisions of the Convention. The Committee also noted that the PCNPETE provides for the organization of workshops for the preparation of preliminary draft texts to revise the minimum age for admission to work and the exemption for admission to light work.

The Committee notes the Government's indication that it is endeavouring to bring its legislation into conformity with the Convention and that draft legislative texts have been prepared. ***Noting that the Government has been referring to the reform of its legislation since 2006, the Committee once again urges it to take the necessary measures to amend the legislation as soon as possible to bring it into conformity with the Convention by providing for exemptions to the minimum age for admission to employment or work only in the cases strictly envisaged by the Convention. It requests that the Government provide copies of the draft legislative texts on this subject.***

Article 2(1). Scope of application and labour inspection. In its previous comments, the Committee noted that, although the national legislation excludes all forms of work performed by children on their own account, in practice poverty has facilitated the development of such activities (shoeshiners, street vendors), which are completely illegal. The Committee noted that dropping out of school and educational wastage are the principal causes of child labour in the informal economy. In this regard, the Committee noted strategy No. 3 of the PCNPETE, which provides for the implementation of measures to extend the supply of education and training, and strategy No. 4 of the PCNPETE, on the strengthening and enforcement of the legal framework, which also envisages the reinforcement of the capacities and resources of the labour inspectorate.

The Committee notes the Government's indication that the labour inspectorate does not have sufficient resources to monitor the informal economy, but that a process has commenced of reinforcing the resources available to the labour administration services. The Committee recalls that the Convention applies to all forms of work and employment, including children working in the informal economy. It also recalls that the expansion of monitoring mechanisms adapted to the informal economy can be an important means of ensuring the application of the Convention in practice, particularly in countries where the expansion of the scope of the implementing legislation to address children working in the informal economy does not seem to be a practicable solution (see the 2012 General Survey on the fundamental Conventions, paragraph 345). ***The Committee therefore requests that the Government take measures to adapt and strengthen the labour inspection services to ensure the monitoring of child labour in the informal economy and to ensure that these children are afforded the protection set out in the Convention. It requests that the Government provide information on the measures taken for this purpose.***

Article 3(3). Admission to hazardous types of work from the age of 16 years. In its previous comments, the Committee noted that section 1 of Order No. 3748/MFPTEOP/DTSS of 6 June 2003 respecting child labour provides that the minimum age for admission to hazardous types of work is 18 years. However, it noted that, under the terms of Order No. 3750/MFPTEOP/DTSS of 6 June 2003 establishing the nature of the hazardous types of work prohibited for children and young persons (Order No. 3750), boys under the age of 16 years are authorized to carry out the lightest work in underground mines and quarries, such as loading ore, handling and haulage of small wagons within the weight limits set out in section 6 of the Order, and overseeing or handling ventilation equipment (section 7). Order No. 3750 also allows the engagement of children aged 16 years in the following types of work: work using circular saws, provided that authorization in writing has been obtained from the labour inspectorate (section 14); work involving vertical wheels, winches and pulleys (section 15); the operation of steam valves (section 18); work on mobile platforms (section 20); and the performance of perilous feats in public performances in theatres, cinemas, cafes, circuses and cabarets (section 21). The Government expressed a commitment to amend all the provisions that were not in conformity with the Convention in the context of a reform of laws and regulations as part of the implementation of the PCNPETE.

The Committee notes the Government's indication that the exemptions in Order No. 3750 have been removed in the available draft texts. However, it notes that the Government has not provided any copies of this draft legislation. ***Recalling that the Committee has been referring to this issue since 2006, it urges the Government to take the necessary measures as rapidly as possible to bring its legislation into conformity with the Convention and to ensure that children under 16 years of age cannot be employed in work in underground mines and quarries and that the conditions provided for in Article 3(3) of the Convention are fully guaranteed for young persons between 16 and 18 years of age engaged in the types of work covered by Order No. 3750 of 6 June 2003. It requests that the Government provide information on any progress made in this respect.***

Senegal

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, the Government's replies received on 1 December 2016, and its report.

Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children for the purpose of economic exploitation and forced labour, and penal sanctions. Begging. 1. *Legislation.* In its previous comments, the Committee noted with concern that, although section 3 of Act No. 2005-06 of 29 April 2005 to combat trafficking in persons and similar practices and to protect victims prohibits the organization for economic gain of begging by others, or the employment, procuring or deceiving of any person with a view to causing that person to engage in begging, or the exertion of pressure so that the person engages in begging or continues to beg, section 245 of the Penal Code provides that "the seeking of alms on days, in places and under conditions established by religious traditions does not constitute the act of begging". The Committee observed that, from a joint reading of these two provisions, it would appear that the act of organizing begging by *talibé* children cannot be criminalized, as it does not constitute an act of begging under section 245 of the Penal Code.

The ITUC indicates that in November 2014 a Bill was proposed to regulate *daaras* (Koranic schools) by establishing inspection criteria, but that since then the Bill has been under consultation with religious chiefs and the Government should take measures to accelerate the adoption of the Bill. The ITUC also emphasizes the fact that the ambiguity of the joint reading of section 3 of Act No. 2005-06 and section 245 of the Penal Code should oblige the Government to amend the Penal Code so as to explicitly guarantee that no exceptions can enable a child to be forced to beg. The Committee also notes that the National Unit to Combat Trafficking in Persons (CNLTP) in its 2014 annual report, "Action to combat trafficking in persons in Senegal: Current situation and implementation of the National Action Plan", which was attached to the Government's report, also recommends the Government to review Act No. 2005-06 and section 245 of the Penal Code to remedy the continuing situation of ambiguity. The Committee further notes that, according to the Committee on the Rights of the Child, a draft Children's Code, encompassing all the legislation respecting children's rights, has been finalized and submitted for adoption (CRC/C/SEN/CO/3-5, paragraph 7). The Committee takes due note of the draft legislation to eliminate begging by *talibé* children, but observes that it has been under preparation and consultation for several years. ***It therefore urges the Government to intensify its efforts to ensure the adoption of the various draft legal texts with a view to prohibiting and eliminating begging by talibé children and to protect them against sale, trafficking and forced or compulsory labour and to ensure their rehabilitation and social integration. The Committee requests the Government to provide information on the progress achieved in this regard.***

2. *Application in practice.* The Committee previously noted that the number of *talibé* children forced to beg, most of whom are boys between the ages of four and 12 years, was estimated at 50,000. It emphasized the fact that these children in practice receive very little education and are extremely vulnerable, as they are totally dependent on their Koranic teacher or *marabout.* The Committee also noted that, although seven Koranic masters had been arrested and sentenced to imprisonment under Act No. 2005-06, the sentences have never been enforced and, since the conviction and release of these *marabouts* in 2010, no *marabout* has been prosecuted or convicted.

The Committee notes the ITUC's indication that the Government is not managing to enforce section 3 of Act No. 2005-06, nor to investigate, prosecute and ensure the conviction of those who force *talibé* children to beg. According to the ITUC, the absence of investigations and prosecutions is mainly due to a lack of political will by the authorities, ambiguity in the Penal Code and the social pressure exerted by certain religious authorities. Indeed, the Government indicates in its report that the courts convict those responsible for trafficking on the basis of legal provisions other than Act No. 2005-06, and the statistics show that convictions under the Act are still at a low level. The Committee also notes the Government's indication that the CNLTP has launched many training sessions on Act No. 2005-06 to incite those responsible for its enforcement to greater firmness against those responsible for trafficking. Through these courses, between March 2015 and January 2016, training was provided, among others, to 23 prosecutors and heads of the secretariats of the prosecution services on the identification and protection of victims, and on the system for the provision of information for databases on judicial action in relation to trafficking in persons (SYSTRAITE), which will make it possible to assess trends and developments in trafficking in the country. However, the Committee notes that, according to a map of the Koranic schools in the Dakar region prepared by the CNLTP in 2014, over 30,000 *talibé* children are forced to beg every day in the Dakar region alone. The Committee also notes that the Committee on the Rights of the Child, in its concluding observations of 7 March 2016, also expressed deep concern at the very low rate of prosecutions and convictions of those responsible for the exploitation of children, including Koranic teachers (CRC/C/SEN/CO/3-5, paragraph 69). The Committee is bound to express its ***deep concern*** at the persistence of the phenomenon of the economic exploitation of *talibé* children and the low number of prosecutions under section 3 of Act No. 2005-06. Noting the difficulties encountered by the Government in the enforcement of Act No. 2005-06, the Committee recalls once again that, under the terms of *Article 7(1)* of the Convention, it is required to take all the necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the provision and application of sufficiently effective and dissuasive penal sanctions. ***It therefore urges the Government to take the necessary measures to ensure the enforcement in practice of section 3 of Act No. 2005-06 to persons who make use of begging by talibé children under 18 years of age for the purposes of economic exploitation. Noting the weak impact of the measures taken, the Committee requests the Government to intensify its efforts for the effective reinforcement of the capacities of officials responsible for the enforcement of the legislation and to ensure that those responsible for these acts are prosecuted and that sufficiently dissuasive penalties are imposed in practice. Noting with regret the absence of data on this subject, the Committee once again requests the Government to provide statistics on the number of prosecutions initiated, convictions handed down and penalties imposed under Act No. 2005-06.***

Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Talibé children. The Committee previously noted the various programmes for the modernization of *daaras* and the training of Koranic teachers, as well as the various framework plans for the elimination of the worst forms of child labour.

The Committee notes the ITUC's observation that in November 2013 a programme was launched for a support project to modernize *daaras* (PAMOD) with a view to establishing rules to eradicate begging and protect the rights of children in *daaras.* This programme is reported to include the establishment of 164 "modern" *daaras,* and the allocation of financial subsidies to existing *daaras* which demonstrate good practices in eliminating any dependence on begging. It also notes the Government's indication that 179 child victims of trafficking were identified in 2015, although no indication is provided of how many of them are *talibé.* Moreover, according to the annual report of the CNLTP, the Care, Information and Counselling Centre for Children in Difficulties (the GINDDI Centre) has provided shelter for 217 *talibé* child beggars, including 155 victims of trafficking. ***The Committee requests the Government to continue taking the necessary measures to protect talibé children under 18 years of age against sale and trafficking and forced or compulsory labour and to ensure their rehabilitation and social integration. It requests the Government to provide information on the measures taken for this purpose, including within the framework of the PAMOD, with a view to the modernization of the system of daaras. The Committee once again requests the Government to provide statistics on the number of talibé children who have been removed from the worst forms of child labour and who have benefited from rehabilitation and social integration measures in the GINDDI Centre.***

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

Seychelles

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

Observation 2016

Article 1(c) of the Convention. Disciplinary measures applicable to seafarers. For many years, the Committee has referred to section 153 of the Merchant Shipping Act 1992 under which a seafarer who, alone or in combination with seafarers, persistently and wilfully neglects his duty, disobeys lawful commands or impedes the navigation of the ship, is liable to a sentence of imprisonment of five years, involving an obligation to perform labour, in accordance with section 28-1 of the Prison Act 1991. The Government stated that it was undertaking a revision of the Merchant Shipping Act 1992. The Committee requested the Government to pursue its efforts, within the framework of this revision, to ensure that no penalty of imprisonment involving compulsory labour may be imposed as a punishment of labour discipline and to indicate the current stage of the revision process of the Merchant Shipping Act.

The Committee notes the ratification by the Seychelles of the Maritime Labour Convention, 2006 (MLC, 2006) on 7 January 2014 and that the Merchant Shipping Act was amended in 2015 following the entry into force of the MLC, 2006. The Committee notes with ***regret*** the Government's indication in its report that the penalties under section 153 of the Merchant Shipping Act 1992 remain in force. The Committee notes the Government's indication that imprisonment does not involve compulsory labour and that further discussion on the amendment of this section will be discussed with the relevant authority in due course. However, the Committee notes that according to section 28(1) of the Prison Act of 1991, every prisoner confined in a prisoner pursuant to a warrant of conviction, shall be liable to work at such labour within or outside the precincts of the prison as may be directed by the Superintendent and so far as practicable such labour shall take place in association or outside cells.

The Committee recalls once again that the imposition of penalties involving compulsory labour for breaches of labour discipline is contrary to the Convention unless these penalties punish acts endangering the ship or the life or health of persons. ***The Committee expresses the firm hope that section 153 of the Merchant Shipping Act as amended in 2015, will be reviewed in light of the Convention, with a view to ensuring that no sanction involving an obligation to perform work may be imposed as a disciplinary measure applicable to seafarers and that the Government will indicate, in its next report, the measures taken or envisaged to amend the legislation.***

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

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery and practices similar to slavery. Sale and trafficking of children. The Committee observed previously that there did not appear to be a provision that specifically prohibits trafficking of children under the age of 18 years for labour and sexual exploitation. It noted the Government's indication that the Social Affairs Department was working in collaboration with the United Nations Office on Drugs and Crimes (UNODC) in order to draft laws on trafficking in persons. The Committee requested the Government to take effective measures to ensure that national legislation prohibiting the sale and trafficking of children under 18 years age for labour and sexual exploitation is adopted.

The Committee notes the Government's indication in its report that the Prohibition of Trafficking in Persons Act was enacted in April 2014 after wide consultation. The Committee notes with ***satisfaction*** that, the Act provides for the specific prohibition of the sale and trafficking of children under the age of 18 with stringent punishment in sections 3 and 4. The maximum penalty for child trafficking is up to 25 years' imprisonment, or additionally with a fine not exceeding 800,000,000 Seychelles rupees (SCR). It also notes that, pursuant to section 21 of the Act, the National Coordinating Committee on Action against Trafficking in Persons was set up in June 2014, with members notably from the Immigration Division, Ministry of Labour and Human Resource Development, the Police Department, Ministry of Foreign Affairs and Transport, and was chaired by the Principal Secretary for the Social Affairs Department. ***The Committee requests the Government to provide information on the application in practice of the Prohibition of Trafficking in Persons Act.***

Clause (b). Use, procuring or offering of a child for prostitution, pornography or pornographic performance. Prostitution. The Committee previously observed that the *use* of children, both boys and girls under 18 years of age, for prostitution, for example by a client, did not seem to be prohibited. It also noted the Government's indication that the new laws on trafficking in persons would include provisions to prohibit the use of children under 18 years of age for prostitution.

The Committee notes the Government statement in its report that section 156(3) of the Penal Code prohibits a person from knowingly *exploiting* the prostitution of another person. It also notes that, section 2 of the Prohibition of Trafficking in Persons Act includes the *use* of a person in sexual acts or pornography in the definition of sexual exploitation.

The Committee again notes the Government's statement that no cases classified as worst forms of child labour have been reported. However, the Committee notes that the United Nations Special Rapporteur on trafficking in persons, especially women and children, in her mission report to Seychelles of 5 June 2014 (A/HRC/26/37/Add.7), indicated the occurrence of internal trafficking of children for sexual purposes and the forced high-class prostitution of Seychellois girls, and according to some sources, boys, by foreign clients, identified as male or female visitors/tourists or locally employed foreign men (paragraphs 10 and 11). The report further indicated that, while girls aged 16 and onwards were most at risk, girls as young as 14 years old were reportedly forcibly prostituted. The report also noted that a number of factors hampered the effective and swift investigation and prosecution of trafficking cases, including the lack of comprehensive understanding of relevant provisions in penal laws by police officials (paragraphs 46 and 47). The Committee expresses its ***deep concern*** at the situation of children under 18 years of age who are engaged in prostitution, particularly sex tourism. ***The Committee, therefore, urges the Government to take the necessary steps to ensure that thorough investigations and robust prosecutions are carried out against persons suspected of using, procuring, or offering children for prostitution. It once again requests the Government to provide statistical information on the number and nature of violations reported, investigations, prosecutions, convictions and criminal penalties imposed in this respect.***

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

Sierra Leone

C017 - Workmen's Compensation (Accidents) Convention, 1925 (No. 17)

Observation 2016

The Committee notes with ***deep concern*** that the Government's report has not been received since 2004.

The Committee notes that the country is mentioned in a special paragraph of the report of the Conference Committee on the Application of Standards for failure to supply information in reply to comments made by the Committee. ***The Committee expects that the Government will be able to report on the application of Convention No. 17 soon and recalls that the technical assistance of the Office is at its disposal.***

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

C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

Observation 2016

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

Articles 1–4 of the Convention. Minimum wage-fixing machinery. The Committee notes that, in its last report, the Government indicated that the draft labour legislation, once it is finally adopted, would clearly spell out the principles of minimum wage fixing in accordance with the requirements of the Convention. It also indicated that the Joint National Board, which comprises representatives of the social partners, had been set up to formulate a wages and income policy, while at present the various trade group councils were empowered to negotiate wages for unionized workers and to implement trade group agreements. ***The Committee requests the Government to provide additional information, including copies of any relevant legal texts, on the composition, mandate and functioning of the Joint National Board, especially as regards the method of determining or readjusting minimum wage levels. In addition, the Committee would be grateful if the Government could provide more detailed information on the activities of the trade group councils and transmit copies of any trade group agreements which may be currently in force and contain minimum wage rates for specific sectors of economic activity or groups of workers.***

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

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2016

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

Articles 1(1) and 2(1) of the Convention. Compulsory agricultural work. For many years, the Committee has been referring to section 8(h) of the Chiefdom Councils Act (Cap. 61), under which compulsory cultivation may be imposed on "natives". On numerous occasions, the Government indicated that this legislation would be amended. The Government also indicated that section 8(h) of the Act was not applied in practice and, as it was not in conformity with article 9 of the Constitution, it was unenforceable.

The Committee notes the Government's statement that, at the time of ratification, chiefs with administrative authority requested forced or communal labour from their communities, but that measures have been taken to address these occurrences, including through the establishment of the Human Rights Commission of Sierra Leone. Nonetheless, the Government states that, despite the prohibition on forced or compulsory labour, minor violations do occur. In this regard, the Government indicates that a report was filed with the Human Rights Commission relating to the undertaking of communal work by a village. ***Noting that the Government had previously indicated its intention to amend this Act, the Committee urges the Government to take the necessary measures to repeal section 8(h) of the Chiefdom Councils Act, to bring it into conformity with the Convention. It requests the Government to continue to provide information on the application of this Act in practice with regard to the exaction of compulsory labour, including information on the reports filed in this respect with the Human Rights Commission.***

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

C088 - Employment Service Convention, 1948 (No. 88)

Observation 2016

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

Contribution of the employment service to employment promotion. ILO technical assistance. The Committee previously noted the Government's statement, contained in a report received in June 2004, indicating that the legislation on employment services has been included on the agenda of the Joint Advisory Commission for discussion. It was the Government's intention to provide a new mandate to employment services so that they are transformed into dynamic labour market information centres. The new employment services will have to cover not only urban centres but also rural areas and ensure the provision of information, planning and the application of employment policies throughout the country. The Government also stated that ILO technical assistance is required to achieve its objectives. The Committee welcomed the fact that the Government was proposing to strengthen employment services. It also recalled that the Office provided support for programmes for the generation of employment opportunities by strengthening employment services for young persons. ***The Committee hopes that the Government will be in a position to describe in its next report the manner in which the employment service reforms have contributed to securing their essential duty, which is to ensure "the best possible organization of the employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources" (Article 1 of the Convention), in cooperation with the social partners (Articles 4 and 5). In this respect, the Committee would be grateful if the Government would provide the statistical information that has been compiled concerning the number of public employment offices established, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices (Part IV of the report form).***

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

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

Sierra Leone

C095 - Protection of Wages Convention, 1949 (No. 95)

Observation 2016

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

Article 16 of the Convention. Full information on legislative amendments. ***While recalling that the Government has been referring for many years to the imminent adoption of new labour legislation and also recalling that draft amendments had been prepared with the assistance of the Office in order to bring the national legislation into conformity with the requirements of the Convention, the Committee urges the Government to take all the necessary steps without further delay to enact the new law and reminds the Government of the availability of further ILO technical assistance in this regard.***

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

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

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

The Committee notes the allegations of the International Trade Union Confederation (ITUC) in 2013 concerning restrictions to collective bargaining in the mining sector. ***It requests the Government to provide its observations thereon.***

Articles 1 and 2 of the Convention. Need to adopt specific provisions accompanied by sufficiently effective and dissuasive sanctions for the protection of workers and workers' organizations against acts of anti-union discrimination and acts of interference. The Committee had previously noted that the revision of the labour laws, prepared with ILO technical assistance, had already been submitted to tripartite meetings, that the comments of the tripartite body had been received and that the document had just been forwarded to the Law Officers' Department. The Committee had asked the Government to keep it informed of any further progress made in the preparation of the final draft document and to provide a copy of the revised legislation as soon as it had been adopted. ***Noting that, according to the information previously sent by the Government, the revision of the labour laws was submitted to the Law Officers' Department in 1995, the Committee requests the Government once again to make every effort to take the necessary action for the adoption of the new legislation in the very near future and to indicate the progress made in this regard.***

Article 4. ***The Committee requests the Government to provide detailed information on the collective agreements in force in the education sector and in other sectors.***

The Committee therefore requests the Government to provide a detailed report on the application of the Convention, accompanied by copies of any legal texts concerning freedom of association adopted since 1992 (year of a draft Industrial Relations Act).

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

C119 - Guarding of Machinery Convention, 1963 (No. 119)

Observation 2016

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

For a number of years, the Committee has drawn the attention of the Government to the fact that the national legislation does not contain provisions to give effect to Part II of the Convention (prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery) and that it does not provide for the full application of Article 17 of the Convention (which applies to all sectors of economic activity), as it is not applicable to certain branches of activity, inter alia, sea, air or land transport and mining.

Since 1979, in reply to the Committee's comments, the Government has indicated in its reports that a Bill to revise the 1974 Factories Act was being drafted and would contain provisions consistent with those of the Convention, and would apply to all the branches of economic activity. In its latest report (received in 1986), the Government indicates that the draft Factories Bill, 1985, has been examined by the competent parliamentary committee and is to be submitted to Parliament for adoption.

With its report for the period ending 30 June 1991, the Government supplied a copy of extracts of the Factories Bill containing provisions which should give effect to Part II of the Convention. In this connection, the Government was requested to indicate the stage of the legislative procedure reached by the Bill and the body which was in the process of examination of the Bill. ***Since no information has been provided by the Government in this respect, the Committee once again expresses the hope that the abovementioned Bill will be adopted in the near future and requests the Government to provide a copy of this text, once it has been adopted.***

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

C125 - Fishermen's Competency Certificates Convention, 1966 (No. 125)

Observation 2016

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

Articles 3–15 of the Convention. Certificates of competency. The Committee has been commenting for a number of years on the absence of laws and regulations giving effect to the Convention. ***The Committee asks the Government to provide detailed information on any concrete progress made in respect of the adoption of national laws implementing the Convention.*** The Committee understands that the Office remains ready to offer expert advice and to respond favourably to any specific request for technical assistance in this regard. ***Finally, the Committee requests the Government to supply up-to-date information concerning the fishing industry, including statistics on the composition and capacity of the country's fishing fleet and the approximate number of fishers gainfully employed in the sector.***

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

Sierra Leone

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

Observation 2016

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

Effective tripartite consultations. The Committee notes the Government's report supplied in June 2004 indicating its commitment to promote tripartite consultation throughout the country as well as supporting the tripartite delegation to the International Labour Conference. ***The Committee hopes that the Government and the social partners will examine how the Convention is applied and that the Government's next report will contain indications on any measures taken in order to implement effective tripartite consultation in the sense of the Convention (Articles 2 and 5 of the Convention).***

The Committee recalls that the Office has the technical capacity to help strengthen social dialogue and support the activities that governments and employers' and workers' organizations undertake for the consultations required by the Convention.

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

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

Somalia

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

The Committee ***regrets*** that the Government's first report has again not been received.

The Committee notes the observations of the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature. The Committee also notes the observations of the Federation of Somali Trade Unions (FESTU), received on 28 August 2015, on restrictions on the exercise of trade union rights, in particular in the telecommunications and media sector, as well as repeated acts of harassment against trade union members. The Committee also notes with ***concern*** that the Committee on Freedom of Association examined a case brought by the FESTU concerning particularly serious violations of its trade union rights (Case No. 3113, 380th Report). ***In these circumstances, the Committee trusts that the Government will take all the necessary measures to provide its first report on the application of the Convention as soon as possible and that it will also provide on that occasion information in response to the observations of the FESTU.***

South Africa

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

Observation 2016

Article 1(c) of the Convention. Disciplinary measures applicable to seafarers. The Committee previously noted that sections 321, 322 and 180(2)(b) of the Merchant Shipping Act of 1951, as amended, provide for the forcible conveyance of seafarers on board ship to perform their duties, and recalled that measures to ensure the due performance of a worker's service under compulsion of law (in the form of physical constraint or the menace of a penalty) were incompatible with *Article 1(c)* of the Convention. The Committee also noted that, pursuant to section 313, the Act also provided for penalties of imprisonment (which involves an obligation to perform labour, according to section 37(1)(b) of the Correctional Services Act, 1998) for breaches of discipline by seafarers, including wilfully disobeying any lawful command or neglecting duty (section 174(2)(b) and (c)); combining with any of the crew to disobey lawful commands, neglect duty, impede the navigation of the ship or retard the progress of the voyage (section 174(2)(d)); preventing, hindering or retarding the loading, unloading or departure of the ship (section 174(2)(f)); desertion (section 175(1) and (2)); and absence without leave (section 176(1) and (2)). The Committee observed that these provisions were not limited to acts or omissions leading to the immediate loss, destruction or serious damage of the ship, or endangering the life of, or causing injury to, persons on board and were thus also incompatible with *Article 1(c)* of the Convention.

The Committee noted the Government's indication that the Merchant Shipping Act was being reviewed and that amendments had been developed in this regard. The Committee also noted with concern that the draft Merchant Shipping Amendment Bill did not amend any of the abovementioned provisions. The Committee therefore urged the Government to revise the draft Merchant Shipping Amendment Bill with a view to achieving conformity with *Article 1(c)* of the Convention.

The Committee notes the ratification by South Africa of the Maritime Labour Convention, 2006 (MLC, 2006) on 20 June 2013, and that the Merchant Shipping Amendment Bill was approved by the President in October 2015 following the entry into force of the MLC, 2006. The Committee notes that the Government's report contains no information in this regard. The Committee notes with ***concern*** that the Merchant Shipping Amendment Bill of 2015 does not amend any of the abovementioned provisions which impact the application of this Convention. ***The Committee expresses the firm hope that the Merchant Shipping Act of 1951 will be reviewed, with a view to achieving conformity with Article 1(c) of the Convention. Particularly, it requests the Government to take the necessary measures to ensure that the offences outlined in sections 174(2)(b), (c), (d) and (f), as well as sections 175(1) and (2) and 176(1) and (2) of the Merchant Shipping Act are not punishable with penalties of imprisonment involving compulsory labour, where the ship or the life or health of persons are not endangered. It also requests the Government to take the necessary measures to ensure that sections 321, 322 and 180(2)(b) of the Merchant Shipping Act are repealed, or to restrict their application to situations where the ship or the life or health of persons are endangered, in conformity with the Convention.***

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

Article 1. National policy designed to ensure the effective abolition of child labour and application of the Convention in practice. The Committee previously noted that, according to the survey on child labour and other work-related activities in South Africa of 2010 (SAYP 2010), the number of children involved in child labour was estimated at 821,000. The survey indicated that these children needed action to be taken.

The Committee notes the Government's indication in its report that the Department of Social Development (DSD) has developed a draft child exploitation strategy, which defines child exploitation according to the Children's Act 38 of 2005 as child trafficking, child labour, child pornography and commercial sexual exploitation of children. The strategy is intended to ensure an integrated and intersectoral collaboration and approach between the Government and civil society organizations, with a view to reducing the incidence of child exploitation in South Africa. The Committee also notes that the Child Labour Programme of Action, Phase III (2013–17) has been launched.

However, the Committee also notes the Government's replies to the list of issues raised by the Committee on the Rights of the Child (CRC) of 15 August 2016 (CRC/C/ZAF/Q/2/Add.1, paragraph 123) that data from the Department of Labour indicates that 784,000 children were involved in economic activities between 2013–16. The CRC expressed its concern in its concluding observations of 30 September 2016 (CRC/C/ZAF/CO/2) that the activities of some business enterprises, in particular, those of extractive industries, have a negative impact on the enjoyment of the rights of the child, including through the exploitation of child labour (paragraph 17). It also expressed its concern at the persistent wide engagement of children in child labour, in particular in agriculture (paragraph 65). While noting the measures taken by the Government, the Committee must express its ***concern*** at the significant number of children engaged in child labour. ***The Committee requests that the Government strengthen its efforts to ensure the progressive elimination of child labour, and to take the necessary measures to ensure that sufficient up-to-date data on the situation of working children is made available. The Committee also requests that the Government provide information on the implementation of the draft child exploitation strategy, once adopted.***

South Africa

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Article 5 of the Convention. Monitoring mechanisms and application of the Convention in practice. In its previous comments, the Committee noted with concern that, according to the survey on child labour and other work-related activities in South Africa of 2010 (SAYP 2010), among children aged 7 to 17 who were engaged in economic activities, exposure to hazardous work was common; respectively 42.3 per cent among children aged 7–10, 41.8 per cent among children aged 11–14 and 41.3 among children aged 15–17. Moreover, a total of 90,000 children were reported to have been injured in the 12 months preceding SAYP 2010 while doing an economic work activity.

The Committee notes the Government's statement in its report that the analysis of the SAYP 2010 was taken into account in compiling the action steps of the third phase (2013–17) of the Child Labour Programme of Action (CLPA), and that a standard operating procedure on finding child labour for labour inspectors was drafted. The Committee also notes that attempts to access data from provinces have proved unsuccessful, despite the provision of training and the reporting matrix to provincial departments of social development (DSD) and civil society organizations, which are the monitoring mechanisms of the Children's Act 38 of 2005. The Committee expresses its ***concern*** at the absence of data on the number of children engaged in the worst forms of child labour. ***The Committee urges the Government to intensify its efforts to eliminate the worst forms of child labour, in particular hazardous work. It also requests the Government to provide information on the nature, extent and trends of the worst forms of child labour, and to provide information on the number and nature of infringements reported by the labour inspectorate, as well as through the monitoring mechanisms established by the Children's Act.***

Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. Child orphans and other vulnerable children (OVCs) of HIV/AIDS. The Committee previously requested the Government to provide information on the effective and time-bound measures taken to protect OVCs from the worst forms of child labour. The Committee notes with ***regret*** that, the information requested was not provided. The Committee notes the information in the Government's country progress report to the United Nations General Assembly Special Session on the Declaration of Commitment to HIV/AIDS of 2012 that the DSD mainly supports OVCs through a basket of services, including food support, home care, drop-in centres and psychosocial support through Home and Community-Based Care (HCBC) workers. In 2011, 1,744,573 OVCs were supported through organizations funded by both the DSD and other development partners. The Committee also notes that according to the 2015 UNAIDS estimates, the number of OVCs due to AIDS aged 0–17 remains at approximately 2.1 million children, which is the same figure as in 2011. ***Expressing its concern at the large number of OVCs who are at an increased risk of being engaged in the worst forms of child labour, the Committee strongly urges the Government to strengthen its efforts to ensure that such children are protected from these worst forms. It also once again requests the Government to provide information on the effective and time-bound measures taken in this regard and on the results achieved.***

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

Sudan

C122 - Employment Policy Convention, 1964 (No. 122)

Observation 2016

The Committee notes the observations of the Sudanese Businessmen and Employers Federation (SBEF), communicated together with the Government's report.

Articles 1 and 2 of the Convention. Formulation of an employment policy and coordination with poverty reduction. In its previous comments, the Committee invited the Government to provide information on the progress made towards the formulation of an active employment policy, as required by the Convention. The Government indicates in its report that a Labour Force Survey was carried out in 2011 in order to prepare indicators to assist in the formulation of an employment policy. In 2013, a roadmap and seven concept papers were prepared by international experts on a range of topics, including: the creation of job opportunities through small project development; the formulation of a vocational training policy; the social economy; social protection; social dialogue and the dynamics of the labour market; and the informal economy. The roadmap and concept papers were discussed in workshops and at a high-level round table which issued recommendations on the formulation of an employment policy. The Government indicates that a high-level advisory committee, composed of experts and the social partners, was set up in 2014 to formulate an employment policy. The high-level advisory committee has formulated the principal guidelines to be contained in the employment policy. With respect to plans and programmes designed to promote full, productive and freely chosen employment, the Committee notes the information provided by the Government concerning the impact of measures implemented during the reporting period, including the impact of employment measures taken within the National Project for Rural Women Development, as well as various training measures targeting youth. The Committee also notes that a Coordinating Unit for Intensive Employment has been established within the Ministry of Labour and Administrative Reform that will focus on creating sustainable jobs for youth. The Government indicates that a five-year Economic Reform Programme (ERP) 2015–19 was approved, which aims to benefit from value-added results in manufacturing and agricultural industrialization, while focusing on the need to increase the competitiveness of national goods. In its observations, the SBEF refers to the importance of the ERP 2015–19, which includes concrete quantitative goals and indicators, including in relation to the diverse resources available in the country and increasing the competitiveness of national goods. The ERP's objectives include the creation of 1 million jobs in manufacturing industries. The SBEF adds that there is a need for broad government reform so as to promote interest in the real economy, reform the public service and combat corruption. The SBEF is of the view that these are all serious issues that must be addressed to provide jobs, combat poverty and expand productive work. ***The Committee requests the Government to provide further information on the formulation and implementation of an active employment policy, as required by the Convention, and on the implementation of the Economic Reform Programme 2015–19. Please also provide a copy of the text of the national employment policy, once it is adopted. The Committee also requests the Government to continue to provide information on the employment measures taken to promote full, productive and freely chosen employment, and on their results.***

Article 2. Collection and use of labour market data. The Government indicates that data collected through the Labour Force Survey were used in the formulation of the ERP 2015–19. The Committee notes from the data provided that the unemployment rate was 18.5 per cent in 2011, with 16 per cent unemployment in rural areas compared to 22.9 per cent unemployment in urban areas. It further notes the statistical data provided, disaggregated by sex, employment status and by urban and rural areas. ***The Committee requests the Government to continue to provide updated statistical data, disaggregated as much as possible, on the situation and trends of employment, unemployment and underemployment, in both the formal and informal economies.***

Article 3. Consultation with the social partners. The Committee welcomes the information provided by the Government on the establishment of a National Advisory Committee for Labour Standards, composed of representatives of the social partners and of other relevant bodies. The Government indicates that the social partners are seeking to update the National Jobs Charter in order to take new parameters into account and improve implementation of the Charter, so as to maintain existing jobs and create new ones. The social partners are also working with the Government to implement the Paid Training Programme which aims to train approximately 400,000 graduates in all sectors of economic activity. Moreover, efforts are being made to regulate the conditions of workers employed in the informal economy. ***The Committee requests that the Government provide detailed information on the consultations held with the social partners, including within the National Advisory Committee for Labour Standards, on the formulation and implementation of an active employment policy. Please also include information on the consultations held with the representatives of the persons affected by the employment measures to be taken, such as those working in rural areas and in the informal economy.***

Swaziland

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2016

Articles 1(1) and 2(1) of the Convention. Legislation concerning compulsory public works or services. Over a number of years, the Committee has been drawing the Government's attention to the nonconformity of the Swazi Administration Order No. 6 of 1998 with the Convention. It noted that the Order provides for the duty of Swazis to obey orders requiring participation in compulsory works, such as compulsory cultivation, anti-soil erosion works and the making, maintenance and protection of roads, enforceable with severe penalties for non-compliance. The Committee also noted the Government's indication that this Order had been declared null and void by the High Court of Swaziland (Case No. 2823/2000). The Committee noted, however, the 2011 communication of the Swaziland Federation of Trade Unions (SFTU) alleging that the High Court's nullification of the Order did not assist in halting forced labour practices, as these practices are rooted in the well-established and institutionalized customary law through cultural activities which are largely unregulated. The SFTU indicated that the customary practice of "Kuhlehla" (rendering services to the local chief or king) is still practised and enforced with punitive measures for refusal to attend. The Committee requested the Government to indicate whether any cases have been brought before the court in this regard, including any cases relating to the customary practice of "Kuhlehla". It also requested the Government to provide information on the measures taken to formally repeal the Swazi Administration Order No. 6 of 1998.

The Committee notes the Government's explanation in its report that the customary practice of "Kuhlehla" is a voluntary practice that benefits mostly the people themselves other than the leaders. Through this custom, people plough the fields of traditional leaders once a year to ensure that there is food in their residences, which is for the consumption of the chief's family and those working for the community in these residences and the impoverished members of society who end up staying in the traditional leaders' residences. The Government also indicates that such a custom enables the nation to provide a traditional form of a social protection system for homeless, orphaned and vulnerable children and poor members of the community by providing them with food and shelter. The Government further states that since the Swazi people are happy with, and have a full appreciation of, the importance of the custom, there have been no cases of any persons alleging to have been forced to participate in compulsory work that have ever been brought before the courts. It also adds that this customary practice is not compulsory, as a huge section of the population does not participate in this custom and no punitive action is taken against them. Moreover, since the repeal of the Swazi Administration Order No. 6 of 1998 through Case No. 2823/2000, there have been no measures taken by the Government to formally repeal the Order, for the reason that following its nullification by the High Court, it no longer forms part of the statutes of the country.

While taking note of the above explanation, the Committee draws the Government's attention to the fact that although the Swazi Administration Order No. 6 of 1998 was declared null and void by the High Court, work is being regularly carried out by the population under the customary practice of "Kuhlehla" without there being a text regulating the nature of this work or rules determining the conditions under which such work is required or organized. The Committee recalls that "minor communal services" are excluded from the scope of the Convention under *Article 2(2)(e)*, when they satisfy the criteria which determine the limits of this exception. These criteria are as follows: (1) the services must be "minor services", that is relate primarily to maintenance work; (2) the services must be "communal services" performed "in the direct interest of the community", and not relate to the execution of works intended to benefit a wider group; (3) the members of the community or their direct representatives must "have the right to be consulted in regard to the need for such services". ***In this regard, the Committee trusts that the Government will take the necessary measures to adopt a new text regulating the customary practice of the "Kuhlehla" system, to ensure that the voluntary nature of participation in this work is explicitly set out in the legislation.***

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

Swaziland

C081 - Labour Inspection Convention, 1947 (No. 81)

Observation 2016

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

Articles 2, 3(1) and (2), 10, 11, 16 and 17 of the Convention. Functioning and resources of the labour inspection system. The Committee notes from the limited information provided in the Government's report that the total number of inspections increased from 2,866 in 2009 to 3,548 in 2010, thus contributing, according to the Government, to a better awareness of national labour standards among employers. The Government refers to a single targeted inspection campaign conducted in the apparel industry during the reporting period and specifies that labour inspectors only carry out inspections pursuant to complaints due to the lack of transport facilities. According to the Government, despite the purchase of new cars, all the vehicles have been grounded due to cash flow problems. The Government also indicates that despite the fact that it has managed to fill all vacancies in the labour inspectorate, there is still need to establish new posts as the number of workplaces liable to inspection is increasing.

The Committee notes with ***regret*** that the Government's report does not provide the information previously requested by the Committee on the steps taken or envisaged for the amendment or abrogation of the provisions of section 82 of the Industrial Relations Act and sections 1, 2, 4, and 5 of the Guidelines for intervention by the Commissioner of Labour, so that the Commissioner of Labour may be exempted from carrying out functions of conciliation and resolution of industrial disputes. The Committee refers to *Article 3(1)* and *(2)* of the Convention and notes that these functions are likely to interfere with the effective discharge of the primary enforcement and advisory duties of labour inspectors as identified in *Article 3(1*), or prejudice the authority and impartiality which are necessary to inspectors in their relations with employers and workers. In this respect, the Committee recalls the orientation provided by the *Labour Inspection Recommendation, 1947 (No. 81*), according to which the labour inspectors' functions should not include that of acting as conciliator or arbitrator in labour disputes. ***The Committee therefore once again urges the Government to take the necessary measures so as to bring the Industrial Relations Act and the Guidelines for intervention by the Commissioner of Labour into conformity with Article 3(2) of the Convention by clearly dissociating the inspection and conciliation functions, so that labour inspectors can focus on their primary duties under Article 3(1), and to keep the ILO informed of all progress made in this regard.***

Articles 20 and 21 of the Convention. Annual report. The Committee notes that no annual report of the Department of Labour has been received in the ILO since 2005 under *Article 20* of the Convention. ***The Committee requests the Government to indicate the measures taken or envisaged in order to recommence the publication and regular communication to the ILO of annual reports of the Department of Labour which should contain the information listed in Article 21 of the Convention, including detailed information on the part of the activities of the Commissioner of Labour which concern the enforcement of legal provisions relating to conditions of work and the protection of workers as provided for in Article 3(1)(a) and (b). In the absence of an annual report, the Committee requests the Government to provide detailed information on the number of workplaces liable to inspection and the number of workers employed therein, the staff of the labour inspection service, statistics of inspection visits, violations detected and penalties imposed, as well as data on industrial accidents and cases of occupational disease.***

The Committee recalls moreover that recommendations towards strengthening the labour inspection system of Swaziland were made by the ILO as early as 2005 in the framework of the "Improving Labour Systems in Southern Africa" (ILSSA) project. ***The Committee requests the Government to provide information on any steps taken or envisaged as a follow-up to these recommendations, and encourages the Government to continue to avail itself of ILO technical assistance, including in order to obtaining support in its research for the necessary funds in the framework of international cooperation, with a view to the progressive establishment of a labour inspection system which meets the requirements of the Convention.***

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

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

Swaziland

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

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

Article 1 of the Convention. National policy. The Committee previously noted the allegations made by the Swaziland Federation of Trade Unions (SFTU) that there was no national policy or action programme for the elimination of the worst forms of child labour and that there was no political will on the part of the Government to address the legislative and policy issues concerning child labour.

The Committee notes the Government's indication that the redrafting of the proposed Employment Bill and of the National Action Programme on the Elimination of the Worst Forms of Child Labour (NAP–WFCL) has been finalized by the Labour Advisory Board (LAB) and that both would soon be submitted to Cabinet for adoption and publication. ***Noting that the Government has been referring to the draft Employment Bill and draft NAP–WFCL for several years, the Committee urges the Government to take the necessary measures to ensure that they are adopted without delay, taking into consideration the comments made by the Committee. It requests the Government to provide information on the progress made in this regard.***

Article 2(1). Scope of application. Informal economy, including family undertakings. The Committee previously observed that, in practice, children appeared to be engaged in child labour in a wide range of activities in the informal economy. Yet, the Committee noted that, pursuant to section 2 of the Employment Act, domestic employment, agricultural undertakings and family undertakings were not included in the definition of "undertaking" and therefore not covered by the minimum age provisions of section 97. The Committee further observed that the draft Employment Bill also exempts family undertakings from the minimum age provisions. The Committee therefore reminded the Government that the Convention applies to all branches of economic activity and that it covers all types of work, including work in family undertakings. The Committee also recalled that, in its first report, the Government did not avail itself of the possibility of exclusion of limited categories of employment or work as envisaged in *Article 4* of the Convention.

The Committee notes the Government's indication that the Employment Bill, once adopted and promulgated, will include all workers, even those working in the informal economy, so as to be in line with the Convention. Moreover, the Committee notes the Government's information that, with technical assistance from the ILO, the Ministry of Labour and Social Security has been training labour inspectors on child labour issues and on how to identify child labour in all sectors of the economy. ***The Committee requests the Government to continue to take measures to adapt and strengthen the labour inspectorate in order to improve the capacity of labour inspectors to identify cases of child labour in the informal economy and to ensure that the protection afforded by the Convention is effectively applied to all child workers. It also requests the Government to provide a copy of the adopted Employment Bill along with its next report.***

Article 2(3). Age of completion of compulsory education. The Committee previously noted the Government's indication that it enacted the Free Primary Education Act of 2010, which contains provisions requiring parents to send their children to school until the completion of primary schooling. However, the Committee noted with concern that primary schooling finishes at the age of 12 years, while the minimum age for admission to employment is 15 years in Swaziland.

The Committee once again notes the Government's statement that the concerns raised by the Committee with regard to linking the school-leaving age with the minimum age for admission to employment will be considered in due course. ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee once again urges the Government to take the necessary measures to extend compulsory education up to the minimum age for admission to employment, which is 15 years in Swaziland.***

Article 3(2). Determination of hazardous work. The Committee noted the Government's statement that once the draft Employment Bill was adopted, measures would be taken in consultation with the social partners to develop a list of types of hazardous work prohibited to children and young persons, as envisaged by section 10(2) of the draft Employment Bill. The Committee reminded the Government that, under the terms of *Article 3(2)* of the Convention, the types of hazardous work prohibited to children under 18 years of age shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.

The Committee notes the Government's indication that the multi-stakeholder Child Labour Committee initiated talks to determine the list of hazardous work and that this list would be sent to the LAB for consideration before being transmitted to the Minister of Labour and Social Security. ***The Committee therefore requests the Government to take the necessary measures to ensure that the types of hazardous work prohibited to children under 18 years of age are determined and that the list is adopted in very near future. It requests the Government to provide information on the progress made in this regard.***

Article 7. Light work. The Committee previously noted that, according to the joint ILO–IPEC, UNICEF and World Bank report on Understanding Children's Work in Swaziland, 9.3 per cent of children between the ages of 5 and 14 years were engaged in child labour. The Committee noted that the draft Employment Bill did not appear to set a minimum age for light work, including work in family undertakings. Noting that national legislation did not regulate light work and that a significant number of children under the minimum age were engaged in child labour, the Committee requested the Government to envisage the possibility of adopting provisions to regulate and determine the light work activities performed by children between 13 and 15 years of age, in accordance with *Article 7* of the Convention.

The Committee notes the Government's indication that the concerns raised on this point have been noted. ***Expressing the hope that, in the framework of the draft Employment Bill, provisions will be adopted to regulate and determine light work activities, the Committee requests the Government to provide information on the progress made in this regard in its next report.***

The Committee urges the Government to take the necessary measures to ensure, without delay, the adoption of the Employment Bill. In this regard, it strongly encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. The Committee reminds the Government that it may avail itself of ILO technical assistance to bring its legislation into conformity with the Convention.

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

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

Swaziland

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Article 3 of the Convention. Worst forms of child labour. The Committee previously noted that section 10(1) of the draft Employment Bill prohibits the worst forms of child labour as laid down under *Article 3* of the Convention, and that section 149(1) of the draft Employment Bill provides for penalties for the contravention of the provisions under section 10(1). The Committee noted the Government's indication that the redrafting of the proposed Employment Bill was finalized by the Labour Advisory Board (LAB) and that it would soon be submitted to the Cabinet for adoption and publication. The Government also indicated that the LAB accepted and included the draft provisions on the prohibition of the worst forms of child labour, including the penalties.

The Committee notes the Government's information in its report that the Employment Bill has not been adopted, and that the adoption of the Bill is likely to be delayed due to the lack of legal drafters. The Committee recalls that since 2009, its comments have indicated the need to adopt the Employment Bill to address the worst forms of child labour in accordance with the Convention. The Committee notes with ***concern*** that the process of adoption is significantly delayed. ***The Committee therefore urges the Government to take the necessary measures to ensure that the draft Employment Bill is adopted without delay. It once again requests the Government to supply a copy thereof, once it has been adopted.***

Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances. The Committee previously expressed the firm hope that the Sexual Offences and Domestic Violence Bill (SODV Bill) would be adopted in the near future. The Committee also noted the Government's indication that the SODV Bill, which sought to protect children against commercial sexual exploitation, would soon be promulgated into law.

The Committee notes the Government's indication that, the SODV Bill will be adopted in the near future. ***The Committee urges the Government to take the necessary measures to ensure that the Sexual Offences and Domestic Violence Bill is adopted without delay, and requests it to supply a copy thereof once it has been adopted.***

Article 4(1). Determination of hazardous types of work. The Committee previously noted that according to section 10(2) of the draft Employment Bill, the Minister may, after consultation with the LAB and by notice in the *Gazette,* specify particular types of hazardous work prohibited to children and young persons. The Committee noted the Government's indication that the necessary measures would be taken as envisaged by section 10(2) of the draft Employment Bill. The Committee also noted the Government's indication, in its report submitted under the Minimum Age Convention, 1973 (No. 138), that the multi-stakeholder Child Labour Committee initiated talks to determine the list of hazardous work and that this list would be sent to the LAB for consideration before being transmitted to the Minister of Labour and Social Security.

The Committee notes the Government's information that, the Employment Bill has not been adopted. ***The Committee therefore urges the Government to take the necessary measures to ensure that the types of hazardous work prohibited to children under 18 years of age are determined as a matter of urgency, and that the list is adopted without delay. It requests the Government to provide information on the progress achieved in this regard and to supply a copy of the list of types of hazardous work, once adopted.***

Article 6. Programmes of action to eliminate the worst forms of child labour. National Action Plan on the Elimination of the Worst Forms of Child Labour. The Committee previously noted the Government's indication that the National Action Programme on the Elimination of the Worst Forms of Child Labour (NAP–WFCL) was submitted to the LAB for consideration and that the NAP–WFCL was reviewed in 2012 with technical assistance from the ILO, and that the redrafted version would soon be submitted to the Cabinet for approval and adoption.

The Committee notes the Government's information that the NAP–WFCL has been submitted to the Cabinet for its consideration and adoption. ***The Committee once again strongly urges the Government to take the necessary measures to ensure that the NAP–WFCL is adopted without delay, and requests the Government to provide information on progress made in this regard in its next report.***

Application of the Convention in practice. The Committee previously noted that children were employed to pick cotton and harvest sugar cane, and were also engaged in herding in remote locations, and in domestic service. Children working in agriculture performed physically arduous tasks and risk occupational injury and disease from exposure to dangerous tools, insecticides and herbicides. Children also worked as porters, transporting heavy loads in self-made carts, collecting fees and calling out routes while climbing in and out of moving vehicles. The Committee also noted that, according to the International Trade Union Confederation (ITUC) Report for the World Trade Organization General Council Review of Trade Policies, in 2009, two brothels in central Swaziland were discovered where underage girls worked just to obtain food. The Committee noted the Government's statement that it would provide statistics and data on the prevalence of the worst forms of child labour in Swaziland once these are available.

The Committee notes the Government's indication that there is no information available in this regard and that the Labour Force Survey of 2014 did not capture such information. ***The Committee once again urges the Government to take the necessary measures to collect and compile data on children involved in the worst forms of child labour. Accordingly, it once again requests the Government to provide statistical information on the nature, extent, and trends of the worst forms of child labour, the number of children covered by the measures giving effect to the Convention, and information on the number and nature of infringements reported, investigations undertaken, prosecutions, convictions and penal sanctions applied. To the extent possible, all information provided should be disaggregated by sex and age.***

Noting the Government's intention to seek assistance from the ILO, the Committee encourages the Government to avail itself of ILO technical assistance, with a view to bringing its law and practice into conformity with the Convention.

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

Tanzania, United Republic of

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2016

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

Articles 1(1) and 2(1) of the Convention. Imposition of compulsory labour for purposes of economic development. For many years, the Committee has been expressing its concern at the institutionalized and systematic compulsion to work established in law at all levels, in the national Constitution, acts of Parliament and district by-laws, in contradiction with the Convention. The Committee has referred in this connection to the following legislative provisions:

·– article 25(1) of the Constitution, which provides that every person has the duty to participate in lawful and productive work and to strive to attain the individual and group production targets required or set by law; article 25(3)(d) of the Constitution, which provides that no work shall be considered as forced labour if such work forms part of: (i) compulsory national service in accordance with the law; or (ii) the national endeavour at the mobilization of human resources for the enhancement of society and the national economy and to ensure development and national productivity;

·– the Local Government (District Authorities) Act, 1982, the Penal Code, the Resettlement of Offenders Act, 1969, the Ward Development Committees Act, 1969, and the Local Government Finances Act, 1982, under which compulsory labour may be imposed, inter alia, by the administrative authority for purposes of economic development; and

·– several by-laws adopted between 1988 and 1992 under section 148 of the Local Government (District Authorities) Act, 1982, entitled "self-help and community development", "nation building" and "enforcement of human resources deployment", which provide for an obligation to work.

In this regard, the Committee noted the Government's statement that it hoped to take measures to bring the provisions of the relevant legislation into conformity with the Convention.

The Committee notes the Government's statement that, in practice, there is no government authority permitted to impose forced labour, or an obligation to work, under the umbrella of self-help and community development or nation building. It indicates that the Committee's comments concerning the Local Government (District Authorities) Act, the Resettlement of Offenders Act, the Ward Development Committees Act and the Local Government Finances Act have been brought to the attention of relevant ministries. Similarly, the Committee's comments concerning articles 25(1) and (3) of the Constitution have been communicated to the Ministry of Justice and Constitutional Affairs, to ensure that such comments are addressed during the ongoing constitutional review process. Moreover, the social partners have been urged to engage in the ongoing consultative meetings on the Constitution to ensure that the issues of forced labour are well articulated in the new Constitution, and to give effect to the provisions of the Convention.

The Committee notes that a draft Constitution was presented by the Constitutional Review Commission on 3 June 2013. It observes with ***concern*** that article 48 of this draft appears to contain wording similar to article 25 of the current Constitution, and does not address the issues raised by the Committee in this regard. ***Recalling that the Committee has been raising this issue for more than two decades, the Committee urges the Government to ensure that the draft Constitution currently under consideration is revised, to achieve conformity with the Convention. Particularly, it requests the Government to take the necessary measures to ensure that article 48(1) of the draft Constitution is revised to remove the duty on persons to participate in lawful and productive work and to strive to attain the individual and group production targets required or set by law. It also requests the Government to take measures to limit the scope of exceptions to the definition of forced labour in article 48(3) to the limited exceptions provided for in Article 2(a)–(e) of the Convention, particularly by removing article 48(3)(d) of the draft Constitution. The Committee also requests the Government to pursue its efforts to repeal or amend the legislative provisions which permit compulsory labour to be imposed by an administrative authority or which provide for an obligation to work for the purposes of "self help and community development", "nation building" and "enforcement of human resources deployment", to bring the legislation into conformity with the Convention and the indicated practice. It requests the Government to provide information on progress made in this regard with its next report.***

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

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

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

Article 1 of the Convention. National policy and application of the Convention in practice. The Committee previously noted that, the Government signed a Memorandum of Understanding with the Government of Brazil with the technical support of the ILO to undertake a project in supporting the implementation of the National Action Plan for the Elimination of Child Labour (NAP). The Committee also noted that, the ILO facilitated the dissemination of the NAP by training 148 government officials in the southern regions of Lindi and Mtwara on its effective implementation, as well as 110 local government officials on upscaling child labour interventions into their plans and budgets.

The Committee notes the Government's information in its report that, in execution of the MoU with the Government of Brazil, awareness raising of the NAP was also made to local government officials and stakeholders in other regions of Mbeya, Ruvuma, Mwanza, Arusha and Tanga, along with the establishment and reactivation of district child labour subcommittees. Moreover, measures are under way to look into the possibility of initiating a review process of the NAP with a view to accommodating new developments.

However, the Committee also notes that, the third National Child Labour Survey (NCLS) in mainland Tanzania was carried out in 2014 with the technical and financial support of the ILO. According to the NCLS analytical report released in January 2016, the percentage of economically active children aged 5–17 years stands at 34.5 per cent at national level, while agriculture, forestry and fishing is the single most important industry in terms of the child labour force, employing 92.1 per cent of all working children. The Committee observes that, 22.1 per cent among children aged 5–11 years are working, and 36 per cent among children aged 12–13 are involved in economic activities other than light work, which amounts to about 2.76 million children in total. Recalling that the minimum age for employment or engagement of a child is specified as 14 years by section 5 of the Employment and Labour Relations Act 2004 and section 77 of the Law of Child Act 2009, the Committee expresses its ***concern*** at the significant number of children below the minimum age working in Tanzania. ***While taking note of the measures undertaken by the Government, the Committee urges the Government to strengthen its efforts to ensure the progressive elimination of child labour, and to continue taking measures to ensure that the NAP is effectively implemented. The Committee also requests provide concrete information on the results achieved in terms of progressively eliminating child labour.***

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

Tanzania, United Republic of

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Article 3(d), labour inspection and application of the Convention in practice. Worst forms of child labour. Hazardous work. The Committee notes that the third National Child Labour Survey (NCLS) covering children aged 5–17 years in mainland Tanzania was carried out with ILO technical and financial assistance in 2014. According to the NCLS analytical report released in January 2016, children in hazardous work amount to about 3.16 million, which constitutes 62.4 per cent of working children and 21.5 per cent of children aged 5–17 years. The highest proportion of children classified in hazardous work corresponds to those working under hazardous working conditions (87.2 per cent) followed by those working long hours (29 per cent). The report also shows that carrying of heavy loads is the most common hazard, which involves 65.1 per cent of children in hazardous work. In addition, 46.8 per cent of total children in hazardous work experienced injuries, illness or poor health, which occurred as a result of work. The Committee must express its ***deep concern*** at the large number of children working in hazardous conditions. ***The Committee therefore urges the Government to intensify its efforts to eliminate the worst forms of child labour, in particular hazardous work, and to continue providing information on the nature, extent and trends of the worst forms of child labour. In this regard, the Committee requests the Government to take the necessary measures to promote collaboration between the labour inspectorate and other relevant stakeholders and to provide training to the labour inspectors to detect cases of children engaged in hazardous work.***

Article 6. Programmes of action for the elimination of the worst forms of child labour. The Committee previously noted that, within the framework of the ILO–Brazil Partnership Programme for the Promotion of South–South Cooperation, the Government developed a National Action Plan for the Elimination of Child Labour (NAP). Through the NAP, 148 government officials were sensitized on the worst forms of child labour and on the list of hazardous work. Moreover, child labour subcommittees were established in the districts of Ruangwa, Masasi, Liwale and Lindi Urban to oversee child labour issues. The Committee also noted with interest that during the 2011–12 financial year, a total of 17,243 children were withdrawn from the worst forms of child labour, and 5,073 children were prevented from engaging in these worst forms. Out of these 22,316 children, 5,410 were admitted into vocational training programmes, 2,402 into primary education, and 1,235 into complementary basic education and training. In 2012–13, a total of 1,994 children were withdrawn from the worst forms of child labour.

The Committee notes the Government's information that, in collaboration with the ILO, the Government is implementing a number of programmes, including the South–South Cooperation with the support of the Government of Brazil in the cotton sector, the Achieving Reduction of Child Labour in Support of Education (ARISE) programme with the support of Japan Tobacco International (JTI), and the Promoting Sustainable Practices to Eradicate Child Labour in Tobacco (PROSPER+) programme with the support of Winrock International in the tobacco sector. Furthermore, macrosocial and economic efforts are being undertaken by the Government, such as improvement of the education sector and the living standards of people. ***The Committee requests the Government to continue providing information on the implementation of the NAP, as well as the abovementioned programmes, and the results achieved in terms of eliminating the worst forms of child labour.***

Article 7(1). Penalties. The Committee previously noted that sections 78, 79, 80 and 83 of the Law of the Child Act establish penalties ranging from 100,000 Tanzanian shillings (TZS) to TZS500 million, in addition to imprisonment for the offences related to hazardous work, forced labour, prostitution and the sexual exploitation of children. The Committee also noted that, according to the May 2013 report on the follow-up mission conducted in the framework of the Special Programme Account (SPA mission report), special labour inspections were carried out in agriculture and mining in Arusha and Ruvuma, and the three inspections in Ruvuma detected 16 boys and 21 girls under 18 years of age who were found engaged in hazardous work. However, the Committee observed that, according to the report, while ensuring effective prosecutions for violations related to child labour was one of the aims of the action plan of the SPA and training was provided to labour prosecutors, there had not yet been any prosecutions on this matter and more effective mechanisms were necessary.

The Committee notes with ***concern*** the Government's statement in its report that so far there have been no prosecutions, convictions or penalties in connection with the abovementioned provisions of the Law of the Child Act. ***The Committee once again requests the Government to take immediate measures to ensure that thorough investigations and robust prosecutions are carried out against the perpetrators of the worst forms of child labour, including hazardous work. In this regard, it once again requests the Government to provide information on the number of investigations, prosecutions, convictions and penalties imposed.***

Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. The Committee previously noted that, in collaboration with stakeholders, the Government developed and implemented the National Costed Plan of Action for the Most Vulnerable Children (2007–10) (NCPA–MVC). With the implementation of this plan, the identification of vulnerable children was improved, access to basic support was strengthened, and care and support for the most vulnerable children was mainstreamed into the budgets of the central Government and councils. Other measures included training for community justice facilitators to provide paralegal support, as well as for other facilitators at different levels (national, district and village) to identify the most vulnerable children.

The Committee notes the Government's information that the Free Education Programme for Primary and Secondary Level Education, which is being implemented, will increase access to educational opportunities for children orphaned by HIV/AIDS. The Committee further notes that the second National Costed Plan of Action for Most Vulnerable Children (NCPA II, 2013–17) was launched in February 2013, which calls for a government-led and community-driven response to facilitate access of MVCs to adequate care, support, protection and basic social services, along with a National MVC Monitoring and Evaluation Plan adopted in January 2015 to ensure an effective and efficient coordination of MVC programme interventions.

However, the Committee also notes that, according to the 2015 UNAIDS estimates on HIV and AIDS, there remain approximately 790,000 child orphans of HIV/AIDS. Moreover, the Government's country progress report to the United Nations General Assembly Special Session on the Declaration of Commitment to HIV/AIDS of 2014 shows that only 26,670 orphans and vulnerable children (OVCs) were supported with health care, food, educational supplies, nutritional and psychological services. ***Considering that children orphaned by HIV/AIDS are at an increased risk of being engaged in the worst forms of child labour, the Committee once again urges the Government to strengthen its efforts to ensure that children orphaned by HIV/AIDS are prevented from being engaged in these worst forms, in particular by increasing their access to education and vocational training, and supporting them with the abovementioned services. The Committee requests the Government to continue providing information on the measures taken in this regard, and on the results achieved.***

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

Togo

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

Article 1 of the Convention. National policy and application of the Convention in practice. In its previous comments, the Committee noted was participating in a project to combat child labour through education that was being implemented with the support of ILO–IPEC (the ILO–IPEC–CECLET project), through which a national survey of child labour in Togo (ENTE) was carried out and completed. The survey revealed that around six out of ten children between 5 and 17 years of age (58.1 per cent or 1,177,341 children) were economically active at the national level. The survey also showed that the incidence of children aged 5 to 14 who were engaged in work to be abolished – meaning the performance by a child of prohibited work and, more generally, of types of work that should be eliminated as they are considered socially and morally undesirable under national law – was 54.9 per cent. The results further showed that children aged 5 to 14 years worked in agriculture (52.2 per cent), domestic work (26.3 per cent) as well as other sectors.

The Committee notes the Government's indication in its report that it has established several policies and strategies to abolish child labour and progressively raise the minimum age for admission to employment. These include the adoption by the Government of a Five-Year Action Plan (2013–17), which includes measures to combat child labour and the worst forms thereof. However, the Government's report does not contain any information on the implementation of these strategies or their impact and the results achieved. Moreover, the Committee notes that, according to UNICEF statistics, the figure for child labour for the 2002–12 period was 28.3 per cent. The Committee once again notes with ***concern*** the number of children under the minimum age who work in Togo. ***The Committee therefore urges the Government to intensify its efforts to combat child labour, especially by devoting special attention to children working in agriculture and in the informal economy, and to provide information on the impact of the measures taken and the results achieved.***

Article 2(1). Scope of application and labour inspection. In its previous comments, the Committee noted that section 150 of the Labour Code of 2006 provides that children under 15 years of age may not be employed in any enterprise or perform any type of work, even on their own account. The Committee noted with interest that a number of measures had been adopted to strengthen the action of the labour inspection services, especially with regard to monitoring the conditions of work of working-age children. The Government also indicated that, with ILO technical and financial support, it was planning to establish an information system relating to the activities of the labour inspectorate so as to create greater transparency in the action taken to enforce the law. ***Noting the lack of information provided on this matter, the Committee once again requests continue taking the necessary steps to strengthen the capacity of the labour inspection services to ensure that all children under 15 years of age, including those working on their own account or in the informal economy, enjoy the protection afforded by the Convention, and to provide information on the results achieved.***

Article 3(3). Admission to hazardous work from the age of 16 years. In its previous comments, the Committee noted that certain provisions of Order No. 1464/MTEFP/DGTLS of 12 November 2007 authorize the employment of children from the age of 16 years in work that is liable to harm their health, safety or morals. The Committee also noted that section 12 authorizes children over 15 years of age to carry, pull or push heavy loads – weighing up to 140 kilograms in the case of some 15 year-old boys working with wheelbarrows. Furthermore, the Committee observed that there were no provisions as required by *Article 3(3)* of the Convention that protect them in this type of work. The Government indicated that it was committed to taking the necessary steps to revise Order No. 1464 in order to bring it into line with the Convention.

The Committee notes the Government's indication that it considers Order No. 1464/MTEFP/DGTLS of 12 November 2007 to be in conformity with the Convention. The Committee is therefore bound to remind the Government once again that, under *Article 3(3)* of the Convention, national laws or regulations may, after consultation with employers' and workers' organizations, authorize the performance of hazardous types of work by young persons from the age of 16 years on condition that their health, safety and morals are fully protected and that they have received adequate specific instruction or vocational training in the relevant branch of activity. ***The Committee therefore urges the Government once again to take the necessary steps to ensure that Order No. 1464/MTEFP/DGTLS is amended in the near future to bring it into line with Article 3(3) of the Convention. It once again requests provide a copy of the Order, once it has been duly revised.***

Article 6. Apprenticeships. The Committee previously noted that, under the ILO–IPEC–CECLET project, a draft code on apprenticeships has been prepared which specifies the conditions to be observed in apprenticeship contracts and stipulates that no such contracts may start before the completion of compulsory schooling and, in any case, not before the age of 15 years. The Apprenticeship Code has already received technical approval and is currently before the Government awaiting adoption by the Council of Ministers. ***Noting the lack of information received on this matter, the Committee hopes that the Apprenticeship Code will be adopted in the near future and once again requests provide information in this respect.***

Article 8. Artistic performances. The Committee previously noted that, under section 150 of the Labour Code of 2006, the minimum age for admission to employment or work is set at 15 years, unless exceptions are established by order of the Labour Minister. The Government indicated that, in accordance with section 150 of the Labour Code, an order establishing exceptions to the minimum age for admission to employment has been prepared and is awaiting approval by the National Council for Labour and Labour Legislation, the members of which include the social partners. The draft order provides that, outside school hours and in the interest of art, science or education, the labour inspector may grant individual permits to children under 15 years of age to allow them to appear in public performances and to participate as actors or extras in films. The Government indicated that these exceptions will be granted after consultation with the employers' and workers' organizations concerned and will specify the authorized number of hours of work and the working conditions.

The Committee notes the Government's indication that section 259 of the Children's Code establishes the right of children to participate in cultural and artistic activities. The Committee recalls that *Article 8* of the Convention provides for exceptions to the minimum age for admission to employment in individual cases for participation in activities such as artistic performances. However, it notes that section 259 does not constitute an exception to the minimum age for admission to work, but belongs to Part III of the Code, which establishes "children's right to leisure and to recreation and cultural activities". ***The Committee therefore requests take the necessary steps to adopt the draft order with a view to bringing the legislation into conformity with Article 8 of the Convention. It requests provide information on progress made in this respect and to send a copy of the order, once it has been adopted.***

Togo

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children. In its previous comments, the Committee noted that Act No. 2005-009 of 3 August 2005 concerning the trafficking of children (2005 Trafficking of Children Act) places an effective prohibition on the sale and trafficking of children. However, the Committee noted the allegations of the International Trade Union Confederation (ITUC) to the effect that national and international trafficking of children for domestic work existed in Togo. In reply, the Government indicated that efforts were continuing with a view to eliminating the trafficking of children in Togo and that several individuals had been prosecuted and convicted for the trafficking of children. However, the Committee noted that children from poor and rural areas continued to be particularly vulnerable to trafficking inside and outside Togo for domestic and agricultural work and sexual exploitation, and that the internal trafficking and sale of thousands of children, which often take place through the practice of *confiage* (placement of rural children with urban relatives mainly for domestic work), have been and continue to be largely ignored. Moreover, the Committee noted the fact that the prosecution of traffickers is rare, some traffickers obtain release owing to the corruption of state officials and, in cases where traffickers are prosecuted, they are given light sentences.

The Committee notes the Government's indication in its report that it is endeavouring to prosecute and convict persons who commit violations under Act No. 2005-009. The Government indicates that in 2013 there were 81 investigations, 62 prosecutions and 40 convictions relating to the trafficking of children. In 2015, the Government recorded 112 investigations, 101 prosecutions and 60 convictions. ***The Committee requests the Government to continue its efforts to eliminate the trafficking of children and to take the necessary steps to ensure the thorough investigation and effective prosecution of all persons who engage in the sale and trafficking of children under 18 years of age and ensure that penalties constituting an effective deterrent are imposed in practice. The Committee requests the Government to continue providing information on the number of investigations conducted, prosecutions carried out and convictions obtained under the 2005 Trafficking of Children Act, indicating the type of penalties imposed.***

Clauses (a) and (d). Forced or compulsory labour and hazardous types of work. Child domestic work. The Committee previously noted that section 151(1) of the Labour Code of 2006 prohibits forced labour, which is defined as one of the worst forms of child labour. It also noted that, according to Order No. 1464/MTEFP/DGTLS of 12 November 2007 (Order No. 1464) determining the types of work prohibited for children, domestic work is considered to be a hazardous type of work prohibited for children under 18 years of age. However, the Committee noted the ITUC's communication reporting that there are thousands of child domestic workers in Togo, the large majority of whom are girls from poor and rural areas of the country who perform various potentially hazardous household tasks in private homes. These children who live in the house of their employers, are dependent on the latter, and are isolated from their families, which makes them vulnerable to abuse and forced labour.

The Committee notes with ***regret*** the lack of information from the Government on the application of the provisions relating to this worst form of child labour. It is bound to remind the Government once again that, under the terms of *Article 3(a)* and *(d)* of the Convention, work or employment of children under 18 years of age under conditions similar to slavery or under hazardous conditions is among the worst forms of child labour and that, under *Article 1* of the Convention, immediate and effective measures must be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee urges the Government to take immediate and effective measures to ensure the effective application of the national legislation so that children under 18 years of age who perform domestic work do not work under conditions similar to slavery or under hazardous conditions, and benefit from the protection afforded by the national legislation. In this respect, it urges the Government to provide information on the application of the provisions relating to this worst form of child labour, including statistics on the number and nature of reported violations, investigations, prosecutions, convictions and criminal penalties imposed.***

Article 7(2). Effective and time-bound measures. Clause (b). Removing children from the worst forms of child labour and providing for their rehabilitation and social integration. 1. *Sale and trafficking of children.* In its previous comments, the Committee noted that a National Commission for the Care and Social Reintegration of Child Victims of Trafficking (CNARSEVT) had been established. The CNARSEVT was successful in identifying 281 child victims of trafficking (194 girls and 87 boys), of whom 225 were intercepted before arrival at their destination and 53 were repatriated to Nigeria, Benin and Gabon.

The Committee notes that the Government does not provide any information on the results achieved through the activities of the CNARSEVT. However, it indicates that as a result of various action programmes, 840 families of child victims of trafficking have received financial assistance and support in developing income-generating activities with a view to improving their living conditions. The Government also indicates that an anti-trafficking unit comprising five magistrates has been established and that this unit can be consulted on any question relating to the trafficking of persons, especially women and children. ***The Committee requests the Government to provide information on the impact of the anti-trafficking unit in terms of removing children from this worst form of child labour and ensuring their rehabilitation and social integration. It also requests the Government once again to provide information on the activities of the CNARSEVT and on the results achieved in terms of the number of child victims of trafficking who have been repatriated, cared for and reintegrated.***

2. *Domestic work.* The Committee previously noted that, under the ILO–IPEC project to use education to combat the exploitation of child labour in Togo (ILO–IPEC–CECLET), an action programme has been implemented for the protection and school enrolment of 200 girls withdrawn from domestic work in Lomé and the establishment of protection mechanisms for 300 girls at risk in the prefectures of Sotouboua-Blitta and Agou. As part of this action programme, 662 girls between 6 and 17 years of age have been enrolled in school.

The Committee notes the Government's indication that 11 action programmes are under way in various regions and districts in the country, some of which are designed to cater for child victims of domestic work. However, the Government does not supply any details of the content or impact of programmes specifically established to remove children from domestic work. ***The Committee strongly encourages the Government to continue taking immediate and effective measures to remove children from domestic work, one of the worst forms of child labour, and requests it to provide details of the measures taken, and the number of children who have actually been removed from this worst form of child labour and socially rehabilitated.***

Clause (d). Identifying and reaching out to children at special risk. Child victims/orphans of HIV/AIDS. In its previous comments, the Committee noted the Government's statement that, in the context of the ILO–IPEC–CECLET project, a national awareness-raising campaign on schooling for children and non-discrimination towards HIV/AIDS victims has been implemented. Moreover, support for reintegration in school has been given to 300 children under 15 years of age, including 200 children in vulnerable situations as a result of HIV/AIDS and 100 girls not attending school in the five districts of Lomé.

The Committee notes that the Government's report does not contain any new information on the measures taken to prevent the engagement of HIV/AIDS orphans in the worst forms of child labour. However, it notes with ***concern*** that, according to UNAIDS estimates, the number of HIV/AIDS orphans was put at 68,000 in 2015. ***The Committee, therefore, once again urges the Government to intensify its efforts to ensure that HIV/AIDS orphans receive such protection as to prevent their engagement in the worst forms of child labour. It requests the Government to supply information on the measures taken and the results achieved in this respect.***

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

Tunisia

C100 - Equal Remuneration Convention, 1951 (No. 100)

Observation 2016

Articles 1 and 2 of the Convention. Equal remuneration for work of equal value. Legislation. In its previous comments, the Committee noted that section 5bis of the Labour Code establishes, in general, the principle of equality between men and women and that the Government had indicated that the general regulations of the public service and the general regulations pertaining to employees in public enterprises also recognized this principle. It reminded the Government that although these provisions are important in the context of equal remuneration, they are not sufficient to give full effect to the principle of the Convention. The Committee notes that the Government's report once again refers to the abovementioned provisions of national legislation. It also notes that article 40 of the new Constitution, adopted on 26 January 2014, stipulates that "all citizens have the right to work in favourable conditions and with a fair living wage". The Committee draws the Government's attention to the fact that if the right to a fair living wage or the general prohibition on sex-based wage discrimination constitute important prerequisites for the application of the principle of the Convention, they are not sufficient as they do not capture the concept of "work of equal value" (see 2012 General Survey on the fundamental Conventions, paragraph 676). ***Recalling that it considers that the full and complete recognition in law of the principle of equal remuneration between men and women for work of equal value is of utmost importance to ensure the effective application of the Convention, the Committee trusts that the Government will take measures to fully integrate the principle of the Convention in its national legislation, in collaboration with the employers' and workers' organizations, particularly within the context of legislative reforms following the adoption of the new Constitution. The Committee requests the Government to ensure that the new legal provisions cover not only equal remuneration between men and women for work of equal value or performed in the same conditions, but also for work of an entirely different nature which is nevertheless of equal value within the meaning of the Convention. It requests the Government to provide information on any progress made in this regard, as well as on the manner in which the application of the principle of the Convention is ensured in practice. It also requests the Government to provide copies of any administrative or judicial decisions issued on the matter.***

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

Tunisia

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Observation 2016

Articles 2 and 3 of the Convention. Equality of opportunity and treatment for men and women. For several years, the Committee has been requesting the Government to provide information on measures taken to promote real equality of opportunities between men and women in employment and occupation, particularly by combating segregation between men and women in the labour market and stereotypes concerning the capacities and aspirations of women. The Committee notes the Government's indication once again in its report that section 5bis of the 1994 Labour Code generally prohibits discrimination on the basis of sex. The Committee also notes that the new Constitution, adopted on 26 January 2014, provides that the State undertakes to protect, support and improve women's rights, and that it guarantees equal opportunity between men and women when taking on different responsibilities in all areas (article 46). While noting the Government's indication that it is continuing its efforts to more effectively integrate women into economic life, the Committee notes that, despite the fact that school attendance rates in secondary and higher education are higher for girls than for boys, and that two-thirds of higher education graduates are girls (67 per cent in 2014), women's participation in the economy remains particularly limited. The Committee notes that, according to statistics of the National Statistics Institute (INS), in the second quarter of 2016, while women represented 50.9 per cent of the working-age population, their already low rate of participation in the workforce further decreased between 2014 and 2016, falling from 28.6 per cent to 26 per cent. Women's unemployment rate is nearly twice as high as men's (23.5 per cent compared with 12.4 per cent for men). The Committee notes that the rate of unemployment is highest for women who have graduated from higher education (40.4 per cent compared with 19.4 per cent for men). With reference to its comments relating to the application of the Equal Remuneration Convention, 1951 (No. 100), the Committee notes that women are particularly concentrated in traditionally female-dominated areas of study, such as the arts, which offer few or no job prospects or lead them to occupy lower-paid jobs. The Committee also notes that only 6.5 per cent of heads of enterprises are women and that women are barely represented in positions of responsibility (30.8 per cent of senior positions). ***The Committee requests the Government to provide detailed information on the nature and impact of measures taken to promote secondary and higher education for girls and boys in non-traditional areas of study which offer real job prospects, and to combat gender stereotypes and occupational gender segregation with a view to promoting women's participation in the labour market by enabling them to access a wider range of occupations, particularly occupations performed predominantly by men, and at senior and management levels. The Committee requests the Government to provide updated statistics on the situation of men and women in different economic activities, in both the private and public sector, specifying the proportion of men and women in management positions.***

Discrimination on grounds other than sex. For many years, the Committee has been noting with regret the absence of information from the Government on measures taken to combat discrimination based on race, colour, national extraction, religion, political opinion and social origin in the context of a national policy of equality of opportunity and treatment, in accordance with the provisions of the Convention. In its previous comments, the Committee noted the adoption of the new Constitution, which, notably, provides for the equality of citizens before the law without discrimination (article 21) and provides that all citizens have the right to decent working conditions and fair pay (article 40). The Committee notes with ***concern*** that the Government's report still does not contain any information on measures taken or envisaged with a view to expressly prohibiting all discrimination on grounds other than sex, set out in *Article 1(1)(a)* of the Convention. It is therefore bound to recall that the purpose of the Convention is to protect all persons against discrimination in the field of employment and occupation, on the basis of race, colour, sex, religion, political opinion, national extraction or social origin. Noting that the new Constitution does not appear to afford protection against discrimination for the country's citizens, the Committee draws the Government's attention to the fact that the Convention applies to all workers, both nationals and non-nationals, in all sectors of activity, in the public and the private sectors, and in the formal and informal economy (see 2012 General Survey on the fundamental Conventions, paragraph 733). ***Given that the elimination of discrimination in employment and occupation requires the development and implementation of a national policy of equality of opportunity and treatment in multiple areas, the Committee urges the Government to provide detailed information on:***

·(i) measures taken or envisaged, in collaboration with the workers' and employers' organizations, to expressly prohibit all discrimination on the basis of race, colour, national extraction, religion, political opinion or social origin in law and practice;

·(ii) awareness-raising and training activities conducted for workers and employers, and their organizations, as well as for labour inspectors and judges to ensure better knowledge and understanding of the provisions of the Convention and to thereby foster equality of opportunity and treatment in employment and occupation in practice; and

·(iii) the number and nature of cases of discrimination examined by labour inspectors; and to send copies of any administrative or judicial decisions issued on this matter.

The Committee reminds the Government in this regard that it may avail itself of the technical assistance of the International Labour Office.

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

Tunisia

C118 - Equality of Treatment (Social Security) Convention, 1962 (No. 118)

Observation 2016

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

Articles 4 and 5 of the Convention. Payment of old-age, invalidity and survivors' benefits in the case of residence abroad. For many years, the Committee has been drawing the Government's attention to the restrictions relating to the payment of old-age, invalidity and survivors' benefits to Tunisian nationals where the latter are not resident in Tunisia at the date on which the application for benefits is made (section 49 of Decree No. 74-499 of 27 April 1974 concerning old-age, invalidity and survivors' schemes in the non-agricultural sector and section 77 of Act No. 81-6 of 12 February 1981 concerning the organization of social security schemes in the agricultural sector), although this requirement is lifted for foreign nationals of countries bound to Tunisia by a bilateral or multilateral social security treaty that covers the export of benefits. Under this legislation, Tunisian nationals do not benefit from equality of treatment with foreign nationals, contrary to *Article 4(1)* of the Convention, and they may be refused old-age, invalidity and survivors' benefits, contrary to *Article 5(1)* of the Convention, if they apply for the benefit when they are residing abroad in a country that has not concluded a bilateral treaty with Tunisia. The Government previously pointed out that the competent technical services had held consultations with the ILO on the subject and that a Bill intended to adapt the abovementioned provisions was being drawn up. Instructions had been given to the national social security institutions to set aside the requirement of the physical presence of the beneficiary in relation to the application for invalidity, old-age or survivors' benefits or for employment injury benefits.

In its 2014 report, the Government indicates that the legislative reform aimed at bringing the national legislation into line with the Convention remains on the agenda of a technical committee responsible for social protection and that, in practice, the social security funds undertake the free transfer abroad of the benefits due regardless of the nationality of the beneficiaries. The Government also refers to the network of bilateral and regional social security agreements by which Tunisia is bound that have the purpose of guaranteeing rights acquired abroad.

While taking due note of this information, the Committee observes that the situation has not changed since 2007 and that legislative measures must still be taken to bring the national legislation fully into line with *Articles 4* and *5* of the Convention. It also observes that the report does not contain the previously requested statistical information on the transfer of benefits abroad. ***The Committee therefore hopes that the Government will provide information in its next report on the specific legislative measures taken to bring the legislation into full conformity with the Convention and also provide information on the previously requested statistics.***

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

Uganda

C026 - Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)

Observation 2016

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

Follow-up to the discussion of the Committee on the Application of Standards (International Labour Conference, 103rd Session, May–June 2014)

Articles 1–4 of the Convention. Establishment and operation of minimum wage fixing machinery. The Committee notes that this case was discussed before the Conference Committee on the Application of Standards in June 2014. During this discussion, the Government indicated that it had prepared a paper to reactivate the Minimum Wage Advisory Board for submission to the Cabinet. It also indicated that the Cabinet was expected to approve the new Wages Board by September 2014 and that once approved, the Wages Board should submit its recommendations to the Cabinet by the end of April 2015. It further indicated that the Cabinet was expected to have considered these recommendations by June 2015, and the new minimum wage was to be implemented by July 2015. Moreover, the Government indicated that it was ready to follow the recommendation of the Committee of Experts, and looked forward to receiving technical assistance from the ILO in order to complete the wage-fixing process in a manner beneficial to workers, employers and the Government. The Committee also notes the observations submitted by the International Organisation of Employers (IOE) and the Federation of Uganda Employers (FUE) on 21 August 2014, raising concerns regarding the application in law and practice of the Convention. In their observations, the IOE and the FUE indicated that the inactivity of the Minimum Wage Board has resulted in a national minimum wage rate which had remained unadjusted since 1984. According to the IOE and the FUE, the Minimum Wage Advisory Board would need to be reactivated, and the participation of the social partners in the minimum wage fixing machinery would need to be guaranteed. Moreover, the IOE and the FUE underlined that Uganda was benefiting from a growth in GDP which should translate into the full implementation of the Convention as soon as possible. The IOE and the FUE also concurred with the Government on the fact that a study on wage trends in different economic sectors, and an evaluation of the cost of living, together with an analysis of employment trends and various economic factors needed to be conducted before a new minimum wage could be fixed. Finally, the IOE and the FUE called on ILO technical assistance, which they consider desirable for the Government to avail itself of, so that the new minimum wage could be fixed and implemented by July 2015. ***The Committee requests the Government to provide any information as a follow-up to the discussion of June 2014 before the Conference Committee on the Application of Standards with regard to the reactivation of the Minimum Wage Advisory Board and the subsequent fixation of a new minimum wage in the country, as well as to transmit any comments it may wish to make in reply to the observations formulated by the IOE and the FUE.***

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

C081 - Labour Inspection Convention, 1947 (No. 81)

Observation 2016

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

Recent developments. Follow-up to the findings of the need assessment. The Committee notes with ***interest*** that the Government adopted the findings of the 2011 labour administration and inspection audit, which identified, inter alia, the following priority areas for short-term measures: (a) training for labour officers in various areas; and (b) support for the compilation and production of the annual inspection report. ***The Committee requests the Government to keep the Office informed of the measures taken in the framework of the follow-up to the findings of the audit, with a view to giving effect to the Convention and addressing the Committee's previous comments.***

Article 4 of the Convention. Re-establishment of the inspection system under the supervision and control of a central authority. The Committee welcomes the information from the Government's report that a more effective implementation and enforcement of the labour laws will be achieved, inter alia, through the attainment of a stand-alone ministry. Referring to its previous comments, the Committee once again reminds the Government of the need for the labour inspection system to be under the supervision and control of a central authority, within the meaning of *Article 4* of the Convention, so as to ensure equal protection for workers in industrial and commercial establishments throughout the country. ***The Committee requests the Government to continue to take measures to give effect, in law and in practice, to Article 4 of the Convention and to keep the Office informed of any progress achieved and where applicable, the difficulties encountered in this respect.***

Article 5(a). Cooperation between the inspection services and public institutions. Concerning the implementation of the Employment Act No. 6 of 2006, and the Occupational Safety and Health Act No. 9 of 2006, the Committee notes the information from the Government's report that the Government is developing a comprehensive programme on integrated inspection involving other public service sector agencies that share the inspection function. ***The Committee requests the Government to provide information on the conditions and modalities under which the referenced public service sector agencies collaborate within the framework of the comprehensive programme, and on the impact of the programme on the application of the Convention.***

Articles 10, 11 and 16. Resources of the labour inspection system and inspection visits. The Committee notes the information from the Government's report that inspection procedures have been reorganized, that inspectors have been assigned to selected sectors, and that the occupational safety and health department cooperates with the Labour Inspectorate. It also notes that, according to the Government, due to limited resources, inspections focus more on workplaces at higher risk, such as roadworks, construction sites and horticulture. ***The Committee requests the Government to continue to take all the necessary measures, including having recourse to international financial cooperation, to ensure that human and material resources are allocated to the labour inspection system for its effective operation.***

Articles 19, 20 and 21. Publication and communication of an annual report on labour inspection. The Committee notes the Government's commitment to publish and submit to the ILO an annual inspection report on the work of the labour inspection services with its next report. ***Referring to its previous comments and to its general observations of 2009 and 2010, the Committee once again requests the Government to ensure that an annual inspection report containing all the information required by Article 21 (a)–(g) will be published and that a copy will be sent to the Office in the very near future.***

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

Uganda

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

Observation 2016

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. For a number of years, the Committee has been referring to the following provisions of the national legislation, under which penal sanctions involving compulsory prison labour may be imposed (by virtue of section 62 of the Prisons Regulations):

·-the Public Order and Security Act, No. 20 of 1967, empowering the executive to restrict an individual's association or communication with others, independently of the commission of any offence and subject to penalties involving compulsory labour; and

·-sections 54(2)(c), 55, 56 and 56(A) of the Penal Code, empowering the minister to declare any combination of two or more people an unlawful society and thus render any speech, publication or activity on behalf of, or in support of, such a combination, illegal and punishable with imprisonment (involving an obligation to perform labour).

The Committee requested the Government to take the necessary measures to ensure that the above provisions are amended or repealed so as to ensure the compatibility of the legislation with the Convention. The Committee notes an absence of information on this point in the Government's report. The Committee is bound to recall that *Article 1(a)* of the Convention prohibits all recourse to penal sanctions involving an obligation to perform labour, as a means of political coercion or as a punishment for holding or expressing political views, or views ideologically opposed to the established political, social or economic system. It also points out that the protection conferred by the Convention is not limited to activities expressing or manifesting opinions diverging from established principles; even if certain activities aim to bring about fundamental changes in state institutions, such activities are covered by the Convention, as long as they do not resort to, or call for, violent means to these ends. ***The Committee accordingly once again urges the Government to take the necessary measures to ensure that the abovementioned provisions of the Public Order and Security Act, No. 20 of 1967, and of the Penal Code, are amended or repealed so as to ensure that no prison sentence entailing compulsory labour can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. It requests the Government to provide information on measures taken in this regard.***

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

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

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

Article 1. National policy designed to ensure the effective abolition of child labour and application of the Convention in practice. In its previous comments, the Committee noted that the Government acknowledged the problem of child labour in the country and recognized its dangers. The Committee noted that, according to the joint ILO–IPEC, UNICEF and World Bank report on understanding children's work in Uganda of August 2008, an estimated 38.3 per cent of children aged 7 to 14 years, over 2.5 million children in absolute terms, were engaged in economic activity in 2005–06. Some 1.4 million children under the age of 12 years were engaged in economic activity, and 735,000 children aged less than 10 years were economically active. In this regard, the Committee previously noted that a national policy on child labour (NCLP), designed to ensure the effective abolition of child labour and progressively raise the minimum age for admission to employment or work, was adopted in 2006. It noted that the Government was cooperating with ILO–IPEC in the elaboration of a national action plan (NAP) in order to implement this national policy.

The Committee notes with ***concern*** that, according to the Uganda National Household Survey report of 2009–10, 2.75 million children aged 5 to 17 years are engaged in economic activities in Uganda; 51 per cent of them (1.4 million) are considered to be in hazardous child labour. The survey also indicates that child labour manifests itself in various forms and in different sectors, including domestic service, commercial agriculture (tea and sugar plantations), the informal economy, hotels and bars, commercial sexual exploitation, child trafficking, construction, fishing, stone and sand quarrying. Moreover, the Committee notes that a Child Labour Follow-up Survey was conducted in 2012 in the districts of Wakiso, Rakai and Mbale by the Uganda Bureau of Statistics with the collaboration of ILO–IPEC, in the framework of the Project of Support for the preparatory phase of the Uganda National Action Plan for the elimination of child labour (SNAP). According to the survey, children's involvement in work remains common in these districts, with 35 per cent of children aged 6 to 17 years (about 353,000 children) being engaged in some economic activity. Out of this number, 121,000 children, i.e. 11 per cent of all children in the focus districts, were engaged in child labour. More specifically, about 49,000 children in Rakai, 7,800 children in Wakiso, and 21,700 children in Mbale below the age of 12 years were engaged in economic activity. An additional 6,600 children in Rakai, 4,900 children in Wakiso and 1,500 children in Mbale aged 12 to 13 years were in non light economic activities or hazardous work. Furthermore, 3,900 children in Rakai, 23,000 children in Wakiso, and 2,100 children in Mbale aged 14 to 17 were working in some hazardous forms of work or were working excessive hours. Putting these groups together yields an estimate of about 60,400 children aged 5 to 17 in child labour in the Rakai district, about 35,700 in Wakiso, and about 23,300 in Mbale (for a total of about 121,400 child labourers).

The Committee takes due note of the Government's indication that the NAP on the elimination of child labour was launched in June 2012. This NAP is a strategic framework that will set the stage for the mobilization of policy-makers and for awareness raising at all levels, as well as to provide a basis for resource mobilization, reporting, monitoring, and evaluation of performance and progress of the interventions aimed at combating child labour. ***However, noting with concern that a significant number of children are involved in child labour, including in hazardous conditions, the Committee urges the Government to strengthen its efforts to ensure the effective elimination of child labour, especially in hazardous work. In this regard, it requests the Government to provide detailed information on the implementation of the NAP on the elimination of child labour in its next report. The Committee also requests the Government to continue to supply information on the application of the Convention in practice, particularly statistics on the employment of children under 14 years of age.***

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

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

Uganda

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

Observation 2016

Articles 2 and 5 of the Convention. Effective tripartite consultations. The Government indicates in its brief report that tripartite consultations are always held for the purposes of discussing labour matters, although these do not necessarily take place within the National Tripartite Council. Such consultations were held when the National Tripartite Charter on Labour Relations was formulated in 2013 and, more recently, when the Government constituted a National Taskforce on the review of the application of Conventions and reports on international labour standards to address the Committee's 2013 comments. In response to the Committee's request, the Government indicates that arrangements are under way to hold tripartite consultations to discuss the Governing Body's invitation to States parties to certain Conventions, which Uganda has also ratified, namely, Recruiting of Indigenous Workers Convention, 1936 (No. 50), Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65), Contracts of Employment (Indigenous Workers) Convention, 1947 (No. 86), as well as Underground Work (Women) Convention, 1935 (No. 45), to consider denouncing these instruments and contemplate the possibility of ratifying the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and the Safety and Health in Mines Convention, 1995 (No. 176). ***The Committee reiterates its request that the Government provide information on the consultations held within the National Tripartite Council, as well as in other tripartite bodies, on the matters set forth in Article 5(1)(a)–(e) of the Convention, including with regard to the instruments adopted by the Conference at 19 sessions held from 1994 to 2015, submitted to Parliament in April 2016.***

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

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

Articles 3(a) and 7(2)(b) of the Convention. Worst forms of child labour and effective and time-bound measures to provide the necessary and appropriate assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. Abductions and the exaction of forced labour and compulsory recruitment of children for use in armed conflict. The Committee previously noted that, according to the report of the United Nations Secretary-General on children and armed conflict in Uganda of 7 May 2007 (S/2007/260, paragraph 5), Uganda was among the countries where parties to armed conflicts – the Ugandan People Defence Force (UPDF), the local defence units and the Lord's Resistance Army (LRA) – recruited or used children and were responsible for other grave violations. The Committee further noted that, in its concluding observations for the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 17 October 2008, the Committee on the Rights of the Child expressed concern over continued abductions of children living in border regions by the LRA, to be used as child soldiers, sex slaves, spies and to carry goods and weapons (CRC/C/OPAC/UGA/CO/1, paragraph 24).

However, the Committee noted that, according to the report of the Secretary General on children and armed conflict in Uganda of 15 September 2009 (S/2009/462) (Secretary-General's report of 2009), the LRA has not knowingly operated in Ugandan territory since the cessation of hostilities in August 2006. The Committee further noted that a number of measures had been taken in order to rehabilitate children affected by conflict. The Committee also noted that, according to the Secretary-General's report of 2009, the action plan regarding children associated with armed forces in Uganda signed by the Government of Uganda and the Uganda Task Force on Monitoring and Reporting (UTF) on 16 January 2009 covered different areas of activities, including preventing the recruitment of children under 18 years for use in armed conflict and releasing and reintegrating under age recruits.

The Committee notes that, according to the report of 25 May 2012 of the Secretary-General on the situation of children and armed conflict affected by the LRA (S/2012/365), there does not appear to remain any cases of abduction, exaction of forced labour, or compulsory recruitment of children by the LRA on Ugandan territory. Moreover, the Committee notes with ***interest*** that, according to the Secretary-General's report of 2012 (paragraph 46), during the reporting period, 106 Ugandan children (47 girls and 59 boys) were separated from the LRA and were received in reception centres in northern Uganda as part of the repatriation and reunification process for LRA-affected children, managed by non-governmental organization (NGO) partners with United Nations support. All children were provided with interim care, counselling, family tracing and reunification assistance, as well as, in some cases, age-appropriate vocational training. ***The Committee encourages the Government to continue its efforts and take effective and time bound measures to remove children from armed conflict and ensure their rehabilitation and social integration. In this regard, it requests the Government to continue providing information on the number of children under 18 years of age who have been rehabilitated and reintegrated into their communities through these measures.***

Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk. Orphans and vulnerable children. The Committee previously noted the Government's information that a range of factors has contributed to the problem of child labour, such as orphanhood arising from the HIV/AIDS pandemic.

The Committee notes that orphans and vulnerable children (OVCs) in Uganda are recognized in both the Policy on Orphans and Other Vulnerable Children and the National Strategic Plan on OVCs. The Committee also notes that the policies and activities of the National Action Plan on Elimination of the Worst Forms of Child Labour in Uganda include orphans and HIV/AIDS affected persons in its target groups. However, the Committee notes with ***concern*** that, according to UNAIDS estimates for 2012, there are approximately 1 million orphans due to HIV/AIDS in Uganda. Moreover, according to the National Labour Force and Child Activities Survey 2011–12, about half (51.1 per cent) of the children in Uganda who lost both parents were involved in employment and, as a result of their plight, found themselves in child labour. The survey also reveals that, overall, orphans were less likely to attend school compared to non-orphans. ***Recalling that children orphaned as a result of HIV/AIDS and other vulnerable children are at particular risk of becoming involved in the worst forms of child labour, the Committee urges the Government to intensify its efforts to protect these children from the worst forms of child labour. It requests the Government once again to provide information on specific measures taken in this respect, particularly in the framework of the Policy on Orphans and Other Vulnerable Children and the National Strategic Plan on OVCs, and the results achieved.***

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

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

Zambia

C029 - Forced Labour Convention, 1930 (No. 29)

Observation 2016

Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. *Law enforcement and penalties.* In its earlier comments, the Committee noted that trafficking occurs within Zambia's borders where women and children from rural areas are exploited in cities in involuntary domestic servitude or other types of forced labour. It also noted that the country remains a country of origin, destination and transit for the trafficking of persons.

The Committee notes the Government's indication in its report that two cases of trafficking have been prosecuted under the Anti-Human Trafficking Act (2008). Both cases involved Zambian men who had sold their children to Tanzanian individuals. The convicted men are being held in prison pending High Court sentencing and the children were rescued. The Government adds that there are currently nine cases pending under the Anti-Human Trafficking Act. Victims include South Asians being trafficked through Zambia for labour exploitation in South Africa as well as a male Somali teenager. The Government also indicates that immigration and police officials noted that traffickers are often convicted under immigration violations for lack of sufficient evidence to prosecute under anti-trafficking legislation. A well-publicized case of a Namibian immigration official who was accused of trafficking Zambian children for labour, falls into this category. The Government further states that prosecutors are generally able to show transportation of a victim and sometimes able to prove recruitment, but often lack information on exploitation that may be planned for when a victim would arrive at the final destination. Another obstacle to prosecution is the fact that traffickers often flee the scene before they can be arrested. While noting the obstacles facing prosecutors in cases related to trafficking in persons, the Committee notes that the Government has benefited from the assistance of the International Labour Organization (ILO), the International Organization for Migration (IOM), and the United Nations Children's Fund (UNICEF) within the framework of an European Commission-funded project, with the objective of providing training and capacity building to the social partners and labour inspectors on trafficking, and strategies for empowering workers and their families against cases of trafficking. The Committee further notes the Government's indication in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that a certain number of activities have been implemented within the framework of the Joint Programme under the IOM's Counter Trafficking Assistance Programme, including: the reinforcement of capacities of the law enforcement bodies and civil society to operationalize the Anti-Trafficking Law of 2008, such as providing training for enforcement officers and developing a standard operating procedure for law enforcement in handling cases related to trafficking in persons.

The Committee therefore requests the Government to take the necessary measures to strengthen the capacity of the law enforcement officials, including labour inspectors, prosecutors and police officers, to enable them to identify effectively cases of trafficking in persons and to gather the necessary evidence to support criminal prosecution. The Committee also requests the Government to continue providing information on the application in practice of the Anti-Human Trafficking Act, including information on the number of investigations, prosecutions and the penalties imposed.

2. *National Plan of Action.* In its previous comments, the Committee requested the Government to provide information on the results achieved within the framework of the National Plan of Action to Combat Human Trafficking (2012–15). The Committee notes the Government's indication that proactive measures have been taken to tackle trafficking in persons, and progress has been made in establishing a National Committee on Human Trafficking which is headed by the Ministry of Home Affairs and comprises 12 ministries. The Government also states that financial constraints, lack of technical knowledge, lack of vehicles to conduct investigations and corruption by government officials remain the major impediments for the fight against trafficking in persons. The Government also adds that it continues to work closely with international organizations and non-government organizations (NGOs) to advance anti-trafficking efforts. ***The Committee requests the Government to pursue its efforts to prevent, suppress and combat trafficking in persons. It also requests the Government to provide information on the measures taken by the National Committee on Human Trafficking to combat trafficking and to indicate whether a new national plan of action to combat human trafficking has been elaborated.***

3. *Protection and assistance to victims.* In its previous comments, the Committee requested the Government to strengthen its efforts to provide protection and assistance to victims of trafficking, and to provide information on the measures taken in this regard. The Committee notes the Government's indication that plans are under way to secure land for a Lusaka-based shelter this year and start construction next year, but it may lack financial means to transport victims to the shelter. The Government also refers to a series of obstacles with regard to the protection of victims, including a lack of adequate shelter and counselling facilities as well as insufficient government transportation and fuel. In addition, the Committee notes that measures are being taken to ensure that future shelters have the appropriate level of security which temporary shelters run by NGOs are often unable to provide. With regard to the compensation provided for victims of trafficking, the Government indicates that the Anti-Trafficking Act allows courts to order a person convicted of trafficking to pay reparations to victims for damage to property, physical, psychological or other injury, or loss of income and support. While noting the difficulties identified by the Government with regard to the protection and assistance to victims of trafficking, the Committee observes that within the framework of the Joint Programme under the IOM's Counter Trafficking Assistance Programme, a certain number of actions have been carried out, including: direct assistance to victims of trafficking; the provision of safe and secure shelters; medical and psycho-social care; and repatriation and reintegration assistance. ***The Committee therefore requests the Government to strengthen its efforts to provide protection and assistance to victims of trafficking, and to provide information on the measures taken in this regard. It also requests the Government to provide statistical information on the number of victims, who have benefited from the abovementioned services.***

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

Zambia

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 31 August 2016, concerning legislative matters and allegations of anti-union dismissals. ***The Committee requests the Government to provide its comments in this regard.***

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

The Committee notes the Government's reply to the observations of the International Trade Union Confederation (ITUC) received in July 2012 concerning allegations of anti-union intimidation and harassment of workers, retaliation towards union representatives and anti-union dismissals. The Committee takes note that the Government indicates that anti-union harassment and intimidation of workers as well as retaliation towards union representatives are prohibited. The Committee also takes note of the ITUC's observations received on 1 September 2015, which also concern allegations of acts of anti-union discrimination, including harassment, intimidation and dismissal on grounds of trade union membership and participation in strikes. The Committee recalls that acts of harassment and intimidation carried out against workers or their dismissal by reason of trade union membership or legitimate trade union activities seriously violate the principles of freedom of association enshrined in the Convention. ***The Committee trusts that the Government will take any necessary measures to ensure the respect of these principles, and requests it to provide further information on the matters raised by the ITUC, including on the results of any investigations and judicial proceedings undertaken.***

Articles 1–4 of the Convention. Protection against anti-union acts and promotion of free and voluntary collective bargaining. In its previous observations, the Committee had noted that the Industrial and Labour Relations (Amendment) Act No. 8 of 2008 (ILRA) had been adopted, but that most of its comments had not been taken into account when reviewing the law. The Committee notes that the Government indicates that it is currently reviewing all labour laws and that the amendments proposed by the Committee will be taken into account in this review. The Committee recalls its previous comments on the following provisions of the ILRA:

·– Section 85(3) of the ILRA provides that the court shall dispose of the matter before it (including disputes between an employer and an employee, as well as the matters affecting trade unions and collective bargaining rights) within a period of one year from the day on which the complaint or application is presented to it. The Committee understands that, under section 85, the court has jurisdiction over the complaints of anti-union discrimination and trade union interference and recalls that when allegations of violations of trade union rights are concerned, both the administrative bodies and the competent judges should be empowered to give a ruling rapidly. ***The Committee therefore requests the Government to take the necessary measures to shorten the maximum period within which a court should consider the matter and issue its ruling thereon.***

·– Section 78(1)(a) and (c) and section 78(4) of the ILRA allow, in certain cases, either party to refer the dispute to a court or arbitration. The Committee notes that, in its report, the Government indicates that the ILRA provisions relating to arbitration cater for the involvement of both parties. While taking note of the point made by the Government, the Committee wishes to point out that its comments refer specifically to the fact that both parties involved in the dispute need to request the arbitration proceedings, for the latter to be voluntary. The Committee recalls that, in accordance with the principle of voluntary negotiation of collective agreements, arbitration imposed by legislation, or at the request of just one party is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term and acute national crises. ***The Committee therefore requests the Government to give consideration to amending the above provisions so as to ensure that arbitration in situations other than those mentioned above, can take place only at the request of both parties involved in the dispute.***

The Committee firmly hopes that the comments that it has been making for several years will be taken into account in the current review of the labour laws and that the necessary amendments will be adopted in the very near future following full and frank consultations with the social partners. The Committee requests the Government to provide information on any progress achieved in this respect and hopes that the amendments to the Act will be in full conformity with the provisions of the Convention.

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

Zambia

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

Article 2(3) of the Convention. Age of completion of compulsory schooling. The Committee had previously noted that the Education Act of 2011 neither defined the school going age nor indicated the age of completion of compulsory schooling. It had further noted that according to section 34 of the Education Act of 2011, the Minister may, by statutory instrument, make regulations to provide for the basic school going age and age for compulsory attendance at educational institutions.

The Committee notes the Government's indication in its report that the Education Act and Education Policy are undergoing revision. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the revision of the Education Act will define the basic school going age and the age of completion of compulsory schooling of 15 years, so as to link it with the minimum age for employment for Zambia. It expresses the hope that the revised Education Act will be adopted in the near future. The Committee requests that the Government provide information on any progress made in this regard.***

Article 3(2). Determination of hazardous work. The Committee previously noted that the draft statutory instrument on the list of hazardous work was in the process of being approved by the Minister of Justice.

The Committee notes with ***satisfaction*** that the Statutory Instrument No. 121 of 2013 on the prohibition of employment of young persons and children (hazardous labour) has been adopted and that it prohibits the employment of children and young persons under the age of 18 years in hazardous work. Section 3(2) of the Statutory Instrument contains a list of 31 types of hazardous work prohibited to children and young persons, including: animal herding; block or brick making; charcoal burning; explosives; exposure to dust, high levels of noise, asbestos and silica dust, high voltage, lead, toxic chemicals and gases; spraying of pesticides or herbicides; exposure to waterborne diseases and infections; exposure to physical or sexual abuse; excavation/drilling; welding; stone crushing; work underground and underwater; work at heights; fishing; handling tobacco and cotton; lifting heavy loads; operating dangerous machinery or tools; long working hours; night work; and selling or serving in bars. ***The Committee requests that the Government provide information on the application in practice of Statutory Instrument No. 121 of 2013, including statistics on the number and nature of violations reported and penalties imposed.***

Labour inspectorate and application of the Convention in practice. The Committee previously noted that according to the joint ILO–IPEC, UNICEF and World Bank report on Understanding Children's Work (UCW) in Zambia of 2012, although there has been a substantial reduction in the incidence of child labour, over one third of children aged 7–14 years, some 950,000 children were working, of which nearly 92 per cent worked in the agricultural sector.

The Committee notes the Government's information in its report that a number of provinces have active programmes against child labour, such as sensitization of parents, farmers and employers on child labour and hazardous work. The District Child Labour Committees (DCLC) in the Kaoma and Nkeyama districts in the Western Province, in collaboration with Japan Tobacco International (JTI) and Winrock International, are progressively bringing an end to child labour in tobacco growing communities by focusing on education. The Government also indicates that according to the 2015 annual review of the Achieving Reduction of Child Labour in Support of Education project (ARISE), a joint initiative of the ILO, JTI and Winrock International developed with the involvement of national governments, social partners, and tobacco growing communities, about 5,322 children have been withdrawn from child labour and placed in schools; 11,570 community members and teachers were educated about child labour, while 797 households improved their income to take care of their children. The Committee also notes the Government's indication, in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182) that an Inter ministerial National Steering Committee on Child Labour has been established to coordinate various interventions relating to child labour and that more labour officers have been hired in various districts to boost the inspectorate and enhance the enforcement of labour laws. Accordingly, following the inspections carried out by the labour inspectors, it has been identified that hazardous child labour exists in small-scale mining, agriculture, domestic work, and trading sectors, generally in the informal economy. The Committee further notes from the Government's report that according to the findings of the Child Labour Report of 2012, an estimated 1,215,301 children were in child labour, registering an increase from 825,246 children in 2005. The Committee notes with ***concern*** that a large number of children are engaged in child labour, including in hazardous work in the country. ***While taking note of the measures taken by the Government, the Committee urges the Government to strengthen its efforts to ensure that, in practice, children under the minimum age of 15 years are not engaged in child labour. In this regard, the Committee requests that the Government strengthen the activities of the District Child Labour Committees to reduce child labour as well as to strengthen the capacity and expand the reach of the labour inspectorate in monitoring the situation of child labour, especially in the informal economy. It requests that the Government continue to provide information on the measures taken in this regard and on the results achieved.***

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

Zambia

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

Articles 3(a), 5 and 7(1) of the Convention. Sale and trafficking of children, monitoring mechanisms and sanctions. In its previous comments the Committee noted that the labour inspectors and the Ministry of Home Affairs jointly conducts inspections and ensures the investigation and prosecutions of criminal offences related to trafficking of persons. Noting the Government's statement that trafficking is a problem in Zambia, the Committee urged the Government to take the necessary measures to ensure that in-depth investigations and effective prosecutions are conducted against persons who engage in the sale and trafficking of children under 18 years of age.

The Committee notes the Government's information in its report that the activities implemented within the framework of the Joint Programme under the International Organization for Migration's (IOM) Counter Trafficking Assistance Programme include: the reinforcement of capacities of the law enforcement and civil society to operationalize the Anti-Trafficking Law of 2008, such as providing training for enforcement officers and developing a Standard Operating Procedure for law enforcement in handling cases related to trafficking in persons; and direct assistance to victims of trafficking, including the provision of safe and secure shelter, medical and psychosocial care, and repatriation and reintegration assistance. The Committee also notes that the Government refers, in its report under the Forced Labour Convention, 1930 (No. 29), to cases related to trafficking in persons, including children, but does not provide any information related to the prosecution or penalties applied in such cases. The Committee also notes the Government's statement in its report under Convention No. 29 that financial constraints, lack of technical knowledge, lack of vehicles to conduct investigations and corruption by government officials are real impediments for the fight against trafficking in persons. The Committee further notes the Government's statement that internal trafficking of children for domestic work, work in mining and agriculture and sexual exploitation, are common in the country. Children from poor households, as well as orphans and street children are particularly vulnerable to trafficking. ***The Committee urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of persons who traffic in children for the purpose of labour and sexual exploitation are carried out. In this regard, it requests the Government to strengthen the capacity of the law enforcement officials and provide the appropriate funds for their effective functioning. It also requests the Government to provide statistical information on the number of infringements reported, investigations, prosecutions and penal sanctions applied for the offences related to the trafficking of children under the age of 18 years.***

Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Child orphans of HIV/AIDS and other vulnerable children (OVCs). The Committee previously noted the various measures taken by the Government, including the Public Welfare Assistance Scheme, the Social Cash Transfer Scheme as well as several action programmes to prevent and withdraw children at risk of entering into the worst forms of child labour. However, noting with deep concern the high number of children orphaned in Zambia as a result of HIV/AIDS the Committee urged the Government to strengthen its efforts to protect such children from the worst forms of child labour.

The Committee notes the Government's information that the Public Welfare Assistance Scheme, which provides social and educational assistance to children affected by HIV/AIDS and other vulnerable children currently covers all the 103 districts while the Social Cash Transfer Scheme covers an additional 125,000 households. The Committee also notes that, according to the Zambia Country Report of 30 April 2015 to the United Nations General Assembly Special Session on AIDS (UNGASS report), the multisectoral approach of the National AIDS Strategic Framework (NASF) programmes, through the formation of the District AIDS Task Force (DATF), in districts countrywide has provided successful achievements in mobilizing a substantial number of community-based organizations and other NGOs to respond to the needs of OVCs and vulnerable households by providing health-related and other services. The UNGASS report also indicates that the current school attendance among orphans and non-orphans aged 10–14 years is 87.8 per cent. The Committee further notes, that according to the 2015 UNAIDS estimates, an average of 380,000 children aged 0–17 years are orphans due to HIV/AIDS, which indicates a significant decrease from the 2011 estimates of 680,000 children. ***Considering that children orphaned by HIV/AIDS and other vulnerable children are at an increased risk of being engaged in the worst forms of child labour, the Committee urges the Government to continue to strengthen its efforts to protect such children from these worst forms. It requests the Government to continue providing information on the measures taken in this regard and the results achieved.***

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

Zimbabwe

Zimbabwe

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Observation 2016

Zimbabwe

The Committee notes the observations of the International Trade Union Confederation (ITUC) on the application of the Convention, received on 1 September 2016, and the Government's reply thereon. The Committee further notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 1 September 2016. The Committee also notes the observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

The Committee notes the conclusions and recommendations of the Committee on Freedom of Association in Case No. 3128 (see 377th Report, paragraphs 462–476).

Follow-up to the recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO

Trade union rights and civil liberties. The Committee recalls that it had previously asked the Government to provide detailed information on the activities of the Zimbabwe Human Rights Commission (ZHRC) related to trade union rights. The Committee welcomes the detailed information provided by the Government. It notes, in particular, that the ZHRC Education, Promotion and Research Unit conducts awareness campaigns to educate the general public on labour rights, as well as principles of trade unionism; its Complaints Handling and Investigations (CHI) Unit is responsible for receiving complaints regarding alleged violations of trade union rights and carrying out investigations, as appropriate; its Monitoring and Inspections Unit monitors the human rights situation in the country, assesses the country's observance of human rights and freedoms and undertakes media monitoring, law development monitoring and monitoring of judicial decisions which have a bearing on trade union rights. The ZHRC is currently setting up a thematic working group (TWG) on economic, social and cultural rights for the advancement of socio-economic rights, which include labour and trade union rights. The ZHRC recognizes that it has an important role to play as regards the advancement of trade union rights. According to the Government, with the operationalization of the new TWG, the visibility of the ZHRC in the promotion, protection and enforcement of trade union rights will be further enhanced.

In its previous comments, in view of the persisting allegations that trade union activities were being disrupted by the police, and recalling that permission to hold public meetings and demonstrations should not be arbitrarily refused, the Committee urged the Government to take the necessary steps to finalize and adopt a draft handbook on freedom of association and civil liberties and the role of the law enforcement agencies, as well as a draft code of conduct for the state actors in the world of work. The Committee welcomes the Government's indication that with the technical assistance of the Office it has conducted a training-of-trainers workshop in November 2016 for members of the Zimbabwe Republic Police (ZRP). Apart from the adoption of the handbook and the code of conduct, the activity included capacity building on training methodologies suitable for dissemination of international labour standards within the ZRP. The Government informs that the workshop participants adopted specific conclusions aimed at ensuring: (i) greater compliance with the ratified conventions by mainstreaming training on international labour standards within the ZRP training curricula; (ii) that training courses for the police to be conducted in 2017 include international labour standards compliance issues; (iii) the use and application of the handbook and code of conduct; and (iv) that ZRP officials take part in future activities to promote the implementation of international labour standards, including closer partnership with the social partners, as well as the Office. ***The Committee requests the Government to provide information on the implementation of the above conclusions.***

The Committee notes with ***concern*** the allegations submitted by the ZCTU regarding the ban imposed by the ZRP in March and April 2016 on protest actions by the Zimbabwe Banks and Allied Workers Union and the arrest, on 20 July 2016, of nine members of that union for protesting against non-payment of employees' terminal benefits after termination of their employment contracts. While noting that according to the ZCTU their case is pending in the criminal court, the Committee notes the Government's indication that although the unionists in question were briefly detained and questioned by the police in connection with the protest action, no criminal charges were raised against them, and therefore, no such case is pending before the courts. The Committee further notes the Government's indication that the dispute in question is being addressed by the Ministry of Public Service, Labour and Social Welfare, that the hearing on the dispute was held on 24 November 2016 and that the ruling on the matter is expected to be made in 30 days. ***The Committee requests the Government to provide information on the outcome of this matter.***

With respect to the Commission of Inquiry's recommendation that steps be taken by the authorities to bring to an end all outstanding cases of trade unionists arrested under the Public Order and Security Act, the Committee notes the Government's indication that with the exception of two cases for which the ZCTU must facilitate closure, all cases noted by the Commission of Inquiry have been closed and no charges are pending before the courts. In this respect, the Committee also notes the ZCTU's indication that previously reported pending cases were closed, save for one case in respect of which the ZCTU will engage with the Government for the matter to be withdrawn.

Labour law reform and harmonization. The Committee had previously requested the Government to provide information on the progress achieved in bringing the labour and public service legislation into conformity with the Constitution and the Convention.

Labour Act. The Committee recalls that it had referred to the following issues: discretionary power of the Registrar to deny registration of trade unions (section 45); extensive powers of the Minister to regulate trade union dues (sections 55, 28(2), 54(2) and (3)); broad powers conferred on the Registrar and the Minister to investigate and to take over the direction of an employment council (a bipartite body) if there is a belief of mismanagement (section 63A); and powers conferred on the Ministry to investigate trade union organizations and to appoint provisional administrators to manage trade union affairs (section 120).

The Committee notes the Government's indication that, in agreement with the social partners, it has initiated the amendment of the Labour Act through Principles that were adopted by the Tripartite Negotiating Forum (TNF) on 1 September 2016. The agreed Principles seek to harmonize the Act with the Constitution and the Convention on the basis of comments of the ILO supervisory bodies. The Committee notes, in particular, the following Principles:

·-Principle 6 (Governance of Employment Councils) provides for the amendment of section 63A(7) to remove the powers of the Minister to appoint a provisional administrator and gives the Labour Court the power to appoint the provincial administrator having given the parties concerned the right to be heard in compliance with section 69(2) of the Constitution.

·-Principle 8 (Right to Organize) provides for: (i) the amendment of section 45 to provide for specific criteria to be considered by the Registrar in registering a trade union (such as the existence of a constitution, existence of an executive board, fixed business address and membership register); (ii) time frames within which the Registrar shall consider applications and register an organization; (iii) the amendment of provisions which give the Registrar excessive discretion to refuse registration of a trade union or employers' organization after receiving objections from the existing organizations; (iv) the amendment of section 51 in relation to the supervision of election of officers of a trade union or employers' organization; and (v) the amendment of sections 28(2), 54(2) and (3), 55 and 120(2) of the Labour Act and section 120(7) and (8) of Act No. 5 of 2015 with a view to streamlining the Minister's powers to regulate administrative issues of trade unions and employers' organizations.

In addition, the Committee notes that Principle 4 (Collective Job Action) provides for the amendment of sections 107, 109 and 112 to remove excessive penalties in case of an unlawful collective industrial action and to decriminalize such actions.

The Government informs that these Principles are currently before the Cabinet. Once approved, the Attorney-General will draft the amendment Bill in consultation with the social partners. The Government also indicates that pending the coming into effect of the proposed changes, it has taken administrative measures to ease the registration process in line with the proposed Principles, including by setting up a time frame of 30 days.

Public Service Act. The Committee notes a copy of the Principles for the amendment of the Public Service Act, which, according to the Government, have been submitted to Cabinet for approval to facilitate the drafting of the amendment Bill. The Committee notes, that according to Principle 4.4, staff of the Civil Service Commission shall not have the right to organize. The Committee recalls that the Convention does not contain a provision excluding from its scope certain categories of public servants. Accordingly, the right to establish and join occupational organizations should be guaranteed to all public servants and

officials, irrespective of whether they are engaged in the state administration or are officials of bodies which provide important public services. ***The Committee, therefore, requests the Government to take the necessary measures in order to ensure that under the new provisions of the Public Service Act, the staff of the Civil Service Commission will enjoy the rights enshrined in the Convention.***

The Committee further notes that pursuant to Principle 9.2, the registration of public service associations and trade unions shall be done on the advice of the Civil Service Commission. ***The Committee requests the Government to take the necessary measures in order to ensure that legislative provisions adopted on the basis of this Principle do not in practice impose a requirement of "previous authorization", in violation of Article 2 of the Convention, or give the authorities discretionary power to refuse the establishment of an organization.***

The Committee also notes Principle 11.3, which provides for the definition of essential services to include services the interruption of which "would endanger … all rights enshrined in the Constitution". The Committee considers that such a broad limitation on the right to strike could be used in a manner so as to restrict the legitimate exercise of the right to strike. ***The Committee requests the Government to take the necessary measures to ensure that the relevant legislative provision does not contain the excessively broad reference to "all rights enshrined in the Constitution" in the definition of essential services so as to ensure that workers fully enjoy the rights guaranteed by the Convention.***

The Committee notes with ***concern*** that according to the ZCTU, the process of harmonization of the Public Service Act did not include the social partners represented in the TNF. ***The Committee hopes that the labour and public service legislation will be brought into conformity with the Constitution and the Convention, in consultation with the social partners, in the near future. Recalling that the Government may avail itself of the technical assistance of the Office, the Committee requests it to report on the progress made in this respect.***

Prison and correctional service. In its previous comments, the Committee had requested the Government to take the necessary measures so as to ensure that prison and correctional service employees enjoy the right to organize enshrined in the Convention. The Committee notes that the Government indicates that in Zimbabwe, the Prisons and Correctional Service, referred to in article 207 of the national Constitution, is composed of workers, who by their duties, are armed forces in the strictest sense of the term, and that civilian personnel in the correctional services have the right to organize.

The Committee welcomes the Government's indication that while all of the activities under the Office's Technical Assistance Package for the implementation of the Recommendations of the Commission of Inquiry, launched in August 2010, had been carried out, it commits to continue working with all stakeholders, particularly the social partners, to ensure that the progress and achievements realized so far are consolidated upon.

C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Observation 2016

The Committee notes the observations of the International Trade Union Confederation (ITUC) on the application of the Convention, received on 1 September 2016, and the Government's reply thereon. The Committee further notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 1 September 2016 concerning the points addressed by the Committee below.

Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO) Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)

The Committee notes the information provided by the Government and the discussion that took place in the Conference Committee on the Application of Standards (hereinafter the Conference Committee) in June 2016. It notes, in particular, that the Conference Committee urged the Government to: (i) hold meaningful consultations with the social partners in order to fully and effectively implement the Commission of Inquiry's recommendations with respect to the amendment of the Labour Act, the Public Service Act and the Public Order and Security Act; (ii) ensure that dissuasive sanctions are imposed on those engaging in anti-union discrimination and that all workers who have been targeted for discrimination have access to effective remedies; (iii) submit to the Office all statistical information about cases of anti-union discrimination; (iv) provide detailed information on the current situation of collective bargaining in the export processing zones and on the concrete measures to promote it in those zones; (v) ensure that collective bargaining can be exercised in a climate of dialogue and mutual understanding; (vi) enhance the capacity of the social partners to fulfil obligations under existing collective agreements; and (vii) avail itself of the technical assistance of the Office to ensure full compliance with the Convention. The Conference Committee further considered that the Government should accept a high-level ILO mission before the next International Labour Conference in order to assess progress towards compliance with these conclusions.

Labour law reform and harmonization

The Committee had previously requested the Government to provide information on the progress achieved in bringing the labour and public service legislation into conformity with the national Constitution and the Convention.

Labour Act. The Committee notes the Government's indication that in agreement with the social partners, it has initiated the amendment of the Labour Act through Principles that were adopted by the Tripartite Negotiating Forum (TNF) on 1 September 2016. The Government points out that the agreed Principles seek to harmonize the Act with the Constitution and the Convention on the basis of comments of the ILO supervisory bodies and address concerns raised by the ZCTU and the ITUC in 2014 and 2015 with regard to anti-union discrimination in the country. The Committee notes, in particular, the following Principles:

·-Principle 2 (Collective Bargaining) provides for the amendment of sections 25, 79 and 81 of the Labour Act, as well as section 14 of the Labour Amendment Act No. 5 to ensure that collective agreements are not subject to Ministerial approval on the grounds that the agreement is or has become "… unreasonable or unfair" or "contrary to public interest".

·-Principle 4 (Collective Job Action) refers, among others, to the need for clear laws for the protection of workers and their representatives against anti-union discrimination.

The Government informs that these Principles are currently before the Cabinet. Once approved, the Attorney-General will draft the amendment Bill in consultation with the social partners.

Public Service Act. The Committee notes the Government's indication that the Principles for the Amendment of the Public Service Act include the aspect of ensuring that civil servants enjoy the right to collective bargaining. The modalities for the enjoyment of this right by those not engaged in the administration of the State will be articulated in the amendment Bill, in consultation with the social partners, after Cabinet's approval of the Principles. The Committee notes with ***concern*** that according to the ZCTU, the process of harmonization of the Public Service Act did not include the social partners represented in the TNF.

The Committee trusts that the labour and public service legislation will be brought into conformity with the national Constitution and the Convention, in consultation with the social partners, in the near future. Recalling that the Government may continue to avail itself of the technical assistance of the Office, the Committee requests it to report on the progress made in this respect.

Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. In its previous comments, the Committee had requested the Government to provide statistical information on the number of complaints relating to anti-union discrimination lodged with the competent authorities, number of complaints examined, sample judicial decisions issued, average duration of procedures and sanctions applied. The Committee notes the Government's indication that it is making arrangements to engage with the ZCTU in November 2016 on the basis of the information regarding cases of alleged anti-union discrimination compiled by the ZCTU to further verify the status of these cases and to facilitate dialogue on how to best address them. ***The Committee requests the Government to provide detailed information on developments in this regard.***

Article 4. Promotion of collective bargaining. The Committee welcomes the information provided by the Government on various tripartite activities it had conducted with the support of the Office. The Committee notes that these included a TNF technical committee symposium to facilitate dialogue on how the process of collective bargaining can be strengthened as a medium for economic stabilization. Among other conclusions, the participants noted the need for continued capacity building as concerns collective bargaining in order to enhance dialogue and mutual understanding of mutual gains for industrial harmony. It was also agreed that the existing institutions for collective bargaining must be preserved, including through the envisaged measures in the ongoing labour law reform to make employment councils statutory entities. Furthermore, a similar workshop for the members of the civil service National Joint Negotiating Council was convened to establish mutual understanding among the parties of the collective bargaining environment in Zimbabwe. A key outcome of the workshop was the agreement that continuous dialogue was needed to cultivate mutual trust and confidence in the negotiation process. National Joint Negotiating Council members are scheduled to participate at a training-of-trainers workshop on collective bargaining to be held in November 2016. The Government indicates that these activities respond to the conclusions of the Conference Committee requiring the Government to ensure that collective bargaining takes place in a climate of dialogue and mutual understanding.

The Committee welcomes the acceptance by the Government of a high-level ILO mission requested by the Conference Committee in June 2016, which will take place in February 2017, as suggested by the Office.

Zimbabwe

C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

Observation 2016

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 1 September 2016, as well as the Government's report.

Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for the expression of views opposed to the established political, social or economic system. In its earlier comments, the Committee noted that penalties of imprisonment (involving compulsory prison labour by virtue of section 76(1) of the Prisons Act (Cap. 7:11) and section 66(1) of the Prisons (General) Regulations 1996) may be imposed under various provisions of national legislation in circumstances falling within *Article 1(a)* of the Convention, namely:

·-sections 15, 16, 19(1)(b)–(c), and 24–27 of the Public Order Security Act (POSA) publishing or communicating false statements prejudicial to the State; making any false statement about or concerning the President; performing any action, uttering any words or distributing or displaying any writing, sign or other visible representation that is threatening, abusive or insulting, intending thereby to provoke a breach of peace; failure to notify the authority of the intention to hold public gatherings; and violation of the prohibition of public gatherings or public demonstrations;

·-sections 31 and 33 of the Criminal Law (Codification and Reform) Act (Cap. 9:23), which contain provisions similar to the abovementioned sections of the POSA concerning publishing or communicating false statements prejudicial to the State or making any false statement about or concerning the President, etc.; and

·-sections 37 and 41 of the Criminal Law (Codification and Reform) Act (Cap. 9:23), under which sanctions of imprisonment may be imposed, inter alia, for participating in meetings and gatherings with the intention of "disturbing the peace, security or order of the public"; uttering any words or distributing or displaying any writing, sign or other visible representation that is threatening, abusive or insulting, "intending thereby to provoke a breach of peace"; and engaging in disorderly conduct in public places with similar intention.

In this respect, the Committee referred to the recommendations of the Commission of Inquiry appointed under article 26 of the ILO Constitution to examine the observance by the Government of Zimbabwe of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), which recommended that the POSA be brought into line with these Conventions. Furthermore, the Committee referred to the conclusions of the Conference Committee on the Application of Standards of June 2011, which requested the Government, to carry out, together with social partners, a full review of the POSA in practice, and considered that concrete steps should be taken to enable the elaboration and promulgation of clear lines of conduct for the police and security forces with regard to human and trade union rights.

The Committee notes that in its observations, the ZCTU refers to the Criminal Law, alleging that the police invoke section 33 of the Criminal Law (Codification and Reform) Act (Cap. 9:23) for allegedly undermining the authority of, or insulting, the President or his office.

The Committee notes the Government's indication in its report that the abovementioned provisions do not criminalize any person who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. The Government also states that the Constitution provides for freedom of expression and the courts always give due consideration to this right in their judgments, and therefore work exacted as a result of a court order does not constitute forced labour.

However, the Committee, in its 2015 observations made under the Convention No. 87 noted that persisting allegations have indicated that certain trade union activities have been disrupted by the police. It recalled that permission to hold public meetings and demonstrations should not be arbitrarily refused. Moreover, the Committee noted that the POSA has still not been aligned to the Constitution and the Convention, despite agreement in the Tripartite Negotiating Forum to expedite the process of legislative harmonization.

Referring to its General Survey of 2012 on the fundamental Conventions, the Committee recalls once again that *Article 1(a)* of the Convention prohibits the use of "any form" of forced or compulsory labour, including compulsory prison labour, as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. However, the Convention does not prohibit punishment by penalties involving compulsory labour of persons who use violence, incite violence or engage in preparatory acts aimed at violence. But sanctions involving compulsory labour are not in conformity with the Convention if they enforce a prohibition of the peaceful expression of non-violent views that are critical of government policy and the established political system, whether the prohibition is imposed by law or by an administrative decision. Since opinions and views opposed to the established system may be expressed not only through the press or other communications media, but also at various kinds of meetings and assemblies, if such meetings and assemblies are subject to prior authorization granted at the discretion of the authorities and violations can be punished by sanctions involving compulsory labour, such provisions also come within the scope of the Convention (paragraphs 302–303).

The Committee strongly urges, once again, the Government to take the necessary measures in order to ensure that the provisions of the POSA and the Criminal Law (Codification and Reform) Act are repealed or amended, in order to bring legislation into conformity with the Convention. Pending the adoption of such measures, the Committee requests the Government to provide information on the application of these provisions in practice, supplying copies of the court decisions and indicating the penalties imposed.

Article 1(d). Penal sanctions involving compulsory labour as a punishment for having participated in strikes. In its earlier comments, the Committee referred to certain provisions of the Labour Act (sections 102(b), 104(2)–(3), 109(1)–(2), and 122(1)) punishing persons engaged in an unlawful collective action with sanctions of imprisonment, which involves compulsory prison labour. However, the Committee noted the Government's indication that these sections of the Labour Act were included in the draft Principles for the Harmonization and Review of Labour Laws in Zimbabwe. In 2011, the social partners had agreed to the principle of streamlining mechanisms to deal with collective job action and review ministerial powers and those of the Labour Court on collective job action. This principle would provide the framework to amend section 102(b) defining essential services, section 104 on balloting for strike action, sections 107, 109 and 112 on excessive penalties, including lengthy periods of imprisonment and deregistration of trade unions and dismissal of employees involved in collective job action.

The Committee notes the Government's indication that the Labour Law reform is ongoing with the participation of the social partners and the comments made by the Committee of Experts are being taken into consideration. The Committee also notes the Government's indication in its report submitted under Convention No. 87, that the Labour Amendment Act No. 5 was promulgated in August 2015. The Committee notes however that the Labour Amendment Act No. 5 of 2015 does not align sections 102(b), 104(2)–(3), 109(1)–(2), and 122(1) of the Labour Act (Cap. 28:01, as amended in 2006) with the Convention. ***The Committee therefore urges once again the Government to take the necessary measures to ensure that the relevant provisions of the Labour Act are amended so that no sanctions of imprisonment may be imposed for organizing or peacefully participating in strikes, in conformity with Article 1(d) of the Convention.***

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

Zimbabwe

C138 - Minimum Age Convention, 1973 (No. 138)

Observation 2016

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 1 September 2016 as well as the Government's report.

Article 2(1) of the Convention. Scope of application and application of the Convention in practice. In its previous comments, the Committee noted the report of the ZCTU that the informal economy was among the sectors where child labour is the most common. The Committee also noted the Government's indication that it was in the process of strengthening existing programmes, such as the Orphans and other Vulnerable Children National Action Plan (OVC NAP) and the Basic Education Assistance Module (BEAM), in order to reach out to more children in child labour and in need of care.

The Committee notes the observations by the ZCTU that child labour and its worst forms is worsening in the country because of deep-rooted poverty arising out of government economic policy, high unemployment and school drop-outs making children resort to such forms of employment for survival.

The Committee notes the Government's statement in its report that it continues to pursue its efforts to reintegrate children through the OVC NAP and BEAM. The Government also states that it will continue with resource mobilization efforts to fund existing programmes that seek to protect children from engaging in child labour, including a possible collaboration with the ILO in implementing Phase II of the Worst Forms of Child Labour project (WFCL project).

However, the Committee notes that according to the 2014 Child Labour Report of the Zimbabwe National Statistics Agency, 1.6 million children in the age group of 5–14 years are involved in some form of economic activity. Of these, about 4 per cent of the children have never been to school and 33.3 per cent have left school. Moreover, more than 2.7 million children of this age group are engaged in non-economic activities or unpaid work, including: 557,000 children engaged in caring for children under the age of 5 years; 74,000 in caring for the sick; and 2.1 million in unpaid housekeeping. This report also indicated that paid child labour is more prevalent in the agricultural, forestry and fishing sectors. The Committee also notes that the Committee on the Rights of the Child (CRC), in its concluding observations of 7 March 2016, expressed concern at the persistence of child labour, including hazardous work, due to the weak enforcement of existing legislation and policies. The CRC further expressed concern at the exploitation of children, particularly from low-income households, in the informal economy, including low payment of wages and long working hours (CRC/C/ZWE/CO/2, paragraph 72). The Committee notes with ***deep concern*** that a large number of children under the minimum age are engaged in child labour, including in hazardous work, in Zimbabwe, particularly in the informal economy or in unpaid work. ***The Committee accordingly urges the Government to strengthen its efforts to ensure the progressive elimination of child labour in all sectors. In this regard, the Committee requests that the Government take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate so as to enable it to monitor child labour in the informal economy. It also requests that the Government provide information on the measures taken in this regard and the results achieved, including through the implementation of the OVC NAP and the BEAM project.***

Article 2(3). Age of completion of compulsory schooling. In its previous comments, the Committee noted that, while primary school in Zimbabwe is compulsory for every child by virtue of the Education Act of 2006, the Government does not provide information on measures taken or envisaged to ensure that the age of completion of compulsory schooling coincides with the age of admission to work or employment.

The Committee notes the Government's information that primary education, which extends up to nine years, shall be completed at the age of 12 years. It also notes the Government's statement that currently it is focusing on putting in place measures to ensure enrolment, retention and completion of the full education cycle and address the issue of school drop-outs at all levels. The Government further refers to the various measures that have been implemented in this regard, including the school feeding programme; non-formal education for school drop-outs; and a reduction in the cost of education. The Committee, while taking note of the measures taken by the Government, draws the Government's attention to the necessity of linking the age of completion of compulsory schooling with the minimum age for admission to work, as provided for under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). If the compulsory schooling comes to an end before children are legally entitled to work, there may arise a vacuum which regrettably opens the door for the economic exploitation of children (see General Survey of 2012 on the fundamental Conventions concerning rights at work, paragraph 371). ***The Committee accordingly requests that the Government consider raising the age of completion of compulsory education so as to link it with the minimum age of 14 years for admission to employment or work. It requests that the Government provide information on any measures taken in this regard.***

Article 7(3) of the Convention. Determination of light work. The Committee previously noted that section 3(4) of the Labour Relations Regulations establishes that children over 13 years of age may perform light work where such work is an integral part of a course of education or training and does not prejudice their education, health and safety. The Committee noted the Government's statement that it envisaged including in the labour law reform process a determination of the types of light work that may be performed by children. The Government indicated that the revision of Statutory Instrument 155 of 1999 giving the schedule of light work would be done after the revision of the principal Act.

The Committee notes the Government's indication that all the statutory instruments will be aligned with the new provisions of the Labour Act and during this process the list of light work will be revised in consultation with the employers' and workers' organizations. ***Observing that a large number of children under 14 years of age are involved in child labour, the Committee expresses the firm hope that the list of types of light work that may be performed by children from the age of 13 years will be revised and adopted in the near future. It requests that the Government provide information on any progress made in this regard.***

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

Zimbabwe

C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

Observation 2016

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU) received on 1 September 2016 as well as the Government's report.

Article 4(3) of the Convention. Periodic examination of the list of hazardous work. The Committee previously noted the Government's indication that it was initiating consultations in order to elaborate a new list of types of hazardous work.

The Committee notes the Government's indication that, following the adoption of the Labour Amendment Act of 2015, focus will be given to the revision of its supporting regulations, including the list of the types of hazardous work. ***Observing that the Government has been referring to the revision of the list of types of hazardous work since 2003, the Committee expresses the firm hope that the Government will take the necessary measures to ensure the revision of the list of types of hazardous work prohibited to children under the age of 18 years, in the near future. It requests the Government to provide information on any progress made in this regard.***

Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education. In its previous comments, the Committee noted the Government's information that it was continuing its support to the Basic Education Assistance Module (BEAM) and taking several initiatives to address the financial barriers to education, in order to increase school attendance and reduce school drop-out rates.

The Committee notes the ZCTU's observation that the BEAM project is facing financial constraints and that an increase in financial resources of 172 per cent would be needed to reach all children identified by school authorities as needing assistance. In this regard, the Committee notes the Government's information that it continues to allocate funds to the BEAM project in order to ensure that vulnerable children are able to go to school. The Government also indicates that it continues to strengthen the School Feeding Programme as a way of ensuring attendance and retention of children in schools. The Committee notes, however, from the UNESCO *Education For All National Review 2015, Zimbabwe,* that while school enrolments remain relatively high, about 30 per cent of the approximately 3 million children enrolled in primary school do not complete the seven-year primary cycle. This report also indicates that although efforts such as BEAM are commendable, these are far from meeting the needs of about 1 million children who are from poor and disadvantaged families. The Committee further notes that the Committee on the Rights of the Child (CRC), in its concluding observation of 7 March 2016, expressed concern at the: low completion rates at the primary level owing to imposed tuition fees and hidden costs; low quality of education due to inadequate budget allocations to support educational programmes and infrastructure; and difficulties faced by some children in accessing education, particularly those living in poverty and those in remote areas (CRC/C/ZWE/CO/2, paragraph 68). While noting the measures taken by the Government, the Committee must express its ***concern*** at the high number of children who drop out of primary education and do not have access to free basic education. ***Considering that education contributes to preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to strengthen its efforts to ensure access to free basic education to all children, particularly children from poor and disadvantaged families, through the BEAM project, the School Feeding Programme or otherwise, and to provide adequate funding for the proper implementation of these projects. It requests the Government to provide information on concrete measures taken in this regard, particularly with respect to addressing the financial barriers to education, with a view to increasing school attendance rates and reducing drop-out rates.***

Clause (d). Identify and reach out to children at special risk. Orphans of HIV/AIDS and other vulnerable children. The Committee previously noted that many children in Zimbabwe were orphaned due to HIV/AIDS and that most of these children found themselves involved in the worst forms of child labour. In this regard, the Committee noted the allegations made by the ZCTU that the HIV/AIDS pandemic had contributed to the phenomenon of child poverty and child labour, as the number of child-headed families increased. It noted the measures taken by the Government to protect children orphaned by HIV/AIDS from becoming engaged in the worst forms of child labour, including the implementation of the Harmonized Social Cash Transfers schemes (HSCT) and the BEAM project, which contain components aimed at protecting and supporting orphans and vulnerable children as well as the Orphans and other Vulnerable Children National Action Plan (OVC NAP). However, the Committee noted with deep concern the large number of children aged 0 to 17 years who are orphaned due to HIV/AIDS in Zimbabwe and urged the Government to take effective and time-bound measures in this regard.

The Committee notes the Government's statement that it is committed to the implementation of the OVC NAP and is actively funding its programmes targeting all vulnerable children. The Committee also notes from the Government's report that within the framework of the HSCT, 145,691 children in all households and 47,037 child orphans benefitted in 2016. The Committee further notes that according to the Global AIDS Response Progress Report of 2015, the Government is implementing the National Case Management System Project (a project in collaboration between World Education's Bantwana Initiative, USAID, UNICEF, and Zimbabwe's Department of Social Services to strengthen and expand the national community case management system to reach the most vulnerable children in Zimbabwe and connect them to critical services) in order to address the needs of the OVC. This report also indicates that within the BEAM project, school-related assistance is provided to more than 60 per cent of children. The Committee notes, however, that according to the 2015 UNAIDS estimates, an average of 790,000 children aged 0 to 17 years are orphans due to HIV/AIDS. ***Expressing its concern at the large number of children who are HIV/AIDS orphans in the country, the Committee urges the Government to strengthen its efforts to prevent the engagement of these children in the worst forms of child labour, including through the OVC NAP, the HSCT, the BEAM project and the National Case Management System. It requests the Government to provide information on the measures taken and results achieved in this regard.***

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