UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/C.12/2002/SA/5
31 October 2002

ORIGINAL : ENGLISH

ENGLISH ONLY

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
30th session
11-29 November 2002

IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Note by the Secretary-General

The Secretary-General has the honour to transmit herewith the thirtieth report of the International Labour Organization under article 18 of the International Covenant on Economic, Social and Cultural Rights, submitted in accordance with Economic and Social Council resolution 1988(LX)*.

[30 October 2002]

---

*Reproduced as received

CONTENTS

Introduction

The present report has been established according to the arrangements approved by the Governing Body of the International Labour Office[1] to give effect to resolution 1988 (LX) of 11 May 1976 of the United Nations Economic and Social Council requesting specialized agencies to submit reports, in accordance with article 18 of the International Covenant on Economic, Social and Cultural Rights, on the progress made in achieving the observance of the provisions of the Covenant falling within the scope of their activities. According to these arrangements, the International Labour Office is entrusted with the task of communicating to the United Nations, for presentation to the Committee on Economic, Social and Cultural Rights, information on the results of the operation of various ILO supervisory procedures in the fields covered by the Covenant. It should remain open for the Committee of Experts on the Application of Conventions and Recommendations ("Committee of Experts") to report on particular situations whenever it deems this desirable or when specifically requested to do so by the Committee on Economic, Social and Cultural Rights.

This report will follow the approach adopted since 1985, and will contain: (a) indications concerning the principal ILO Conventions relevant to articles 6-10 and 13 of the Covenant; and (b) indications concerning ratification of these Conventions and comments made by ILO supervisory bodies with regard to the application of these Conventions by the States concerned (insofar as the points at issue appear to have a bearing also on the provisions of the Covenant). The latter indications are based mainly on the comments of the Committee of Experts resulting from its examination of the reports on the Conventions in question. Account was also taken of the conclusions and recommendations adopted under constitutional procedures for the examination of representations or complaints and, in the case of article 8 of the Covenant, of the conclusions and recommendations of the Committee on Freedom of Association of the ILO Governing Body following examination of complaints alleging violation of trade union rights. Given the increased recourse to the Joint ILO/UNESCO allegations procedure concerning teaching personnel, information on cases examined there are added under article 13 of the Covenant, when relevant to the country reports being examined.[2]

The list of countries for which information has been provided in the present report appears in the Contents. A recapitulatory list of States parties to the Covenant and of ILO reports containing information concerning them will be found in the Annex.

I. PRINCIPAL ILO CONVENTIONS RELEVANT TO ARTICLES 6-10 AND 13 OF THE COVENANT

The following is a list of the principal ILO Conventions relevant to articles 6-10 and 13 of the Covenant.[3] Indications on the ratification of these Conventions by each State concerned are given in section II (indications concerning the situation of individual countries).

Article 6 of the Covenant

Unemployment Convention, 1919 (No. 2)
Forced Labour Convention, 1930 (No. 29)
Fee-Charging Employment Agencies Convention, 1933 (No. 34)
Employment Service Convention, 1948 (No. 88)
Fee-Charging Employment Agencies Convention, 1949 (No. 96)
Abolition of Forced Labour Convention, 1957 (No. 105)
Indigenous and Tribal Populations Convention, 1957 (No. 107)
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)
Employment Policy Convention, 1964 (No. 122)
Paid Educational Leave Convention, 1974 (No. 140)
Human Resources Development Convention, 1975 (No. 142)
Workers with Family Responsibilities Convention, 1981 (No. 156)
Termination of Employment Convention, 1982 (No. 158)
Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
Employment Promotion and Protection Against Unemployment Convention, 1988 (No. 168), Part II
Indigenous and Tribal Peoples Convention, 1989 (No. 169)

Article 7 of the Covenant

Remuneration

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)
Minimum Wage-Fixing Machinery (Agriculture) Convention, 1951 (No. 99)
Minimum Wage-Fixing Machinery Convention, 1970 (No. 131)

Equal remuneration

Equal Remuneration Convention, 1951 (No. 100)

Safe and healthy working conditions

White Lead (Painting) Convention, 1921 (No. 13)
Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27)
Protection Against Accidents (Dockers) Convention, 1929 (No. 28)
Protection Against Accidents (Dockers) Convention, 1932 (No. 32)
Safety Provisions (Building) Convention, 1937 (No. 62)
Labour Inspection Convention, 1947 (No. 81)
Radiation Protection Convention, 1960 (No. 115)
Guarding of Machinery Convention, 1963 (No. 119)
Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
Maximum Weight Convention, 1967 (No. 127)
Labour Inspection (Agriculture) Convention, 1969 (No. 129)
Benzene Convention, 1971 (No. 136)

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)
Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)
Occupational Safety and Health Convention, 1981 (No. 155)
Occupational Health Services Convention, 1985 (No. 161)
Asbestos Convention, 1986 (No. 162)
Safety and Health in Construction Convention, 1988 (No. 167)
Chemicals Convention, 1990 (No. 170)
Night Work Convention, 1990 (No. 171)
Labour Inspection (Seafarers) Convention, 1996 (No. 178)

Rest, limitation of working hours and holidays with pay

Hours of Work (Industry) Convention, 1919 (No. 1)
Weekly Rest (Industry) Convention, 1921 (No. 14)
Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)
Forty-Hour Week Convention, 1935 (No. 47)
Holidays with Pay Convention, 1936 (No. 52)
Holidays with Pay (Agriculture) Convention, 1957 (No. 101)
Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)
Holidays with Pay Convention (Revised), 1970 (No. 132)
Part-time Work Convention, 1994 (No. 175)
Homework Convention, 1996 (No. 177)
Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)

Article 8 of the Covenant

Right of Association (Agriculture) Convention, 1921 (No. 11)
Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
Workers' Representatives Convention, 1971 (No. 135)
Rural Workers' Organizations Convention, 1975 (No. 141)
Labour Relations (Public Service) Convention, 1978 (No. 151)
Collective Bargaining Convention, 1981 (No. 154)

Article 9 of the Covenant

Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)
Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18)
Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
Sickness Insurance (Industry) Convention, 1927 (No. 24)
Sickness Insurance (Agriculture) Convention, 1927 (No. 25)
Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35)
Old-Age Insurance (Agriculture) Convention, 1933 (No. 36)
Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)
Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)
Survivor's Insurance (Industry, etc.) Convention, 1933 (No. 39)

Survivor's Insurance (Agriculture) Convention, 1933 (No. 40)
Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)
Unemployment Provisions Convention, 1934 (No. 44)
Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48)
Social Security (Minimum Standards) Convention, 1952 (No. 102)
Equality of Treatment (Social Security) Convention, 1962 (No. 118)
Employment Injury Benefits Convention, 1964 (No. 121)
Invalidity, Old-Age and Survivor's Benefits Convention, 1967 (No. 128)
Medical Care and Sickness Benefits Convention, 1969 (No. 130)
Maintenance of Social Security Rights Convention, 1982 (No. 157)
Employment Promotion and Protection Against Unemployment, 1988 (No. 168)

Article 10 of the Covenant

(a) Maternity protection (re para. 2)

Maternity Protection Convention, 1919 (No. 3)
Maternity Protection Convention (Revised), 1952 (No. 103)
Maternity Protection Convention (Revised), 2000 (No. 183)

(b) Protection of children and young persons in relation to employment and work (re para. 3)

Minimum Age (Industry) Convention, 1919 (No. 5)
Minimum Age (Sea) Convention, 1920 (No. 7)
Minimum Age (Agriculture) Convention, 1921 (No. 10)
Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15)
Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33)
Minimum Age (Sea) Convention (Revised), 1936 (No. 58)
Minimum Age (Industry) Convention (Revised), 1937 (No. 59)
Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60)
Minimum Age (Fisherman) Convention, 1959 (No. 112)
Social Policy (Basic Aims and Standards) Convention, 1952 (No. 117)
Minimum Age (Underground Work) Convention, 1965 (No. 123)
Minimum Age Convention, 1973 (No. 138)
Night Work of Young Persons (Industry) Convention, 1919 (No. 6)
Night Work (Bakeries) Convention, 1925 (No. 20)
Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79)
Night Work of Young Persons (Industry) Convention (Revised), 1948 (No. 90)
White Lead (Painting) Convention, 1921 (No. 13) (Article 3)
Radiation Protection Convention, 1960 (No. 115) (Article 7)
Maximum Weight Convention, 1967 (No. 127) (Article 7)
Benzene Convention, 1971 (No. 136) (Article 11)
Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
Medical Examination (Seafarers) Convention, 1946 (No. 73)
Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)
Medical Examination of Young Persons (Non-Industrial Occupations) Convention,

1946 (No. 78)
Medical Examination (Fishermen) Convention, 1959 (No. 113)
Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)
Worst Forms of Child Labour Convention, 1999 (No. 182)

Article 13 of the Covenant

Human Resources Development Convention, 1975 (No. 142)

Reference is also made, when appropriate, to the ILO/UNESCO Joint Recommendation concerning the status of teachers, 1966, and to the work of the Joint ILO/UNESCO Committee which supervises their application.

II. INDICATIONS CONCERNING THE SITUATION OF INDIVIDUAL COUNTRIES

For each article of the Covenant under consideration, these indications show the state of the ratification of the corresponding Conventions by the country in question, and references to the relevant comments of the supervisory bodies with regard to the application of these Conventions. Full copies of the comments of the Committee of Experts are available at the secretariat (in English, French and Spanish) and should be consulted for further details.

The absence of any such reference signifies either that there are no comments at the present time regarding the application of a particular Convention, or that the comments that have been made deal with points not relating to the provisions of the Covenant or to matters (for example, simple requests for information) which it would not appear to be necessary to deal with at this stage, or again that the Government's reply concerning the application of a Convention on which comments had been made has not yet been examined by the Committee of Experts.

When references are made to the "observation" of the Committee of Experts, their texts are published in the report of the Committee for the same year (Report III (Part 1A) of the corresponding session of the International Labour Conference). In addition, comments have been formulated in requests for information addressed directly by the Committee of Experts to the Governments in question; such comments are not published but the text is made available to the interested parties.

A. Estonia

Information concerning Estonia has not yet been supplied to the UN Committee on Economic, Social and Cultural Rights.

The following relevant Conventions have been ratified and are in force for Estonia (for full names see the list of Conventions in Part I above): 2, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 19, 20, 27, 29, 87, 98, 100, 105, 135, and 182.

Article 6

In its 2001 direct request on Convention No. 29, the Committee of Experts recalled the provisions on compulsory prison labour in the Code of Executive Procedures (RT I, 1997, 43/44, 723), which seem to allow that prisoners be hired to or placed at the disposal of private individuals, companies or associations. The Government indicated in its report that the role of private sector as a supplier of work for prisoners is very small and that practically all prisoners work under supervision of the State, including cases when work is performed for private enterprises, labour relations being established between a prisoner and a prison, and contractual relations being held between an entrepreneur and a prison. It also stated that the basis of remuneration is a minimum wage and that the general occupational health and safety requirements are applicable to prisoners, their supervision being performed by the prison. The Government confirmed that prisoners under “open” and “half-closed” schemes (sections 143 and 148 of the Code of Executive Procedures) may work in workshops outside the prison premises. According to the report, about 2,800 prisoners in the country are under an obligation to work, half of them being engaged in useful activities. The Government stated that refusal to work does not give rise to any penalties, but working is taken into account for early release.

While noting this information, particularly the applicability of minimum wages and occupational health and safety provisions, the Committee recalled that under *Article 2, paragraph 2(c)*, of the Convention. It requested the Government to describe the organization of prisoners’ work for private persons and entities, both inside and outside prison premises and to supply specimen copies of agreements concluded between prison authorities and private users of prison labour. The Government was also requested to indicate any measures taken to ensure that any work or service by prisoners for private persons is performed in conditions approximating a free employment relationship; such measures would include the formal consent of the person concerned, as well as – given the absence of alternative access to the free labour market – further guarantees and safeguards covering the essential elements of a free labour relationship, such as wages and social security. As regards the Government’s statement concerning the non-applicability of penalties in case of refusal to work, the Committee recalled that, in the definition of “forced or compulsory labour” given in the Convention, the “penalty” need not be in the form of penal sanctions, but might take the form also of a loss of rights or privileges; it might concern particularly the situation when early release depends on the prisoner’s consent to perform labour.

Article 7

Equal remuneration

In its 2000 direct request on Convention No. 100, the Committee of Experts noted that, according to the National Statistics Office, women's average wages are 75 per cent of men's average wages. The Government attributed this wage disparity to the existence of horizontal and vertical occupational segregation. In this respect, the Committee noted that the publication supplied by the Government, *Towards a balanced society: Women and men in Estonia*, states that "women are widely represented mostly in occupations that are not very prestigious in society and where the wages are below the average. The number of women in higher positions is much smaller than the number of men". The publication further states that that the disparity between men's and women's wages has increased during the last decade. From 1992 to 1998, the wage gap widened in all sectors, with the exception of skilled, agricultural and fishery workers, where wage disparities diminished (from 17 per cent in 1992 to 9 per cent in 1998). The wage gap widened most notably in respect of service workers, shop and market sales workers, where the gap widened from 16 per cent in 1992 to 36 per cent in 1998. The Committee noted that a number of measures to reduce the wage gap are contained in the National Employment Action Plan for 2001-03 and include: employment training, creation of conditions designed to facilitate entrepreneurship, particularly among women, creation of new jobs to reduce unemployment and special training programmes to assist economically inactive persons, particularly women, in re-entering the Estonian labour market.

The Committee of Experts had previously noted that, while section 5 of the Wages Act specifically prohibits any increase or reduction of a wage based on an employee's gender, no provision in the national legislation gives legislative expression to the principle of the Convention. In its 2000 direct request it noted that amendments to the Wages Act, including provisions on equal remuneration, are expected to be adopted in 2000-01. It hoped that the amendments will express the principle of equal remuneration for men and women workers for work of equal value. The Committee also noted the drafting of a gender equality Act.

Article 8

In its 2000 observation on Convention No. 87, the Committee of Experts noted with satisfaction that several discrepancies between domestic legislation, contained in the Non-Profit Associations Act, 1996, and the Trade Union Act, 1989, and the Convention had been repealed or amended. In fact, the new Trade Union Act which was adopted on 16 June 2000 and entered into force on 23 July 2000 does not repeat the provisions of the Trade Union Act of 1989 (which mentions the Central Trade Union of Estonia by name) and guarantees workers the possibility of trade union pluralism. It provides that trade unions are independent and voluntary associations of workers. Under the new Act, obstacles to the constitution and functioning of trade unions have been abrogated or amended. This applies particularly to provisions which imposed a long, cumbersome and detailed procedure to obtain legal personality (abolition of notarized documents with payment of notary's fees for constitution of a trade union and abolition of taxes for obtaining legal personality) and provisions which conferred on the authorities the power to interfere in the formulation of trade union statutes and

in elections of union leaders and the management of organizations. The new Act also specifies that several provisions of the law on non-profit associations apply, unless the union statutes provide otherwise. The Government indicated in its report that the right of employers to establish organizations is still governed by the Non-Profit Associations Act.

In regard to seafarers' right to strike, the Committee of Experts took due note of the information supplied by the Government to the effect that section 21(2) of the collective labour dispute resolution Act does not prohibit seafarers from striking. The Government stated that when they are docked, they have the right to strike.

Article 10

Protection of children and young persons in relation to employment and work

In its 1999 direct request on Convention No. 5, the Committee of Experts noted that section 2(1) of the Employment Contract Act prohibits employment of a person under the age of 18 years with the exception of the cases prescribed by section 2(2)(1) and (2) of the Act. Under section 2(2)(2) of the Act, an employee may be a minor of 13 to 15 years of age, with the written consent of one parent or a guardian and the labour inspector, for work set out in a list approved by the Government, if the work does not endanger the health, morality or education of the minor and is not prohibited to minors by law or a collective agreement. The Committee noted that the list of work approved by the Government by Decree of 22 July 1992 (No. 214) includes several types of work which may be carried out in an industrial undertaking, such as "manual cleaning of articles" and "threading of small-size articles on a thread or a wire". The Committee recalled that the Convention applies to all industrial undertakings with the only exception of family undertakings and technical schools. It requested the Government to indicate the measures taken to prohibit employment of children under 14 years of age even for light work in industrial undertakings covered by *Article 1(1)* of the Convention.

The Committee of Experts has furthermore addressed direct requests to the Government in 2001 on Conventions No. 14 and 16, in 2000 on Conventions Nos. 27 and 135, in 1999 on Convention No. 11, and in 1998 on Convention No. 2.

B. Georgia

Information concerning Georgia has been supplied to the UN Committee on Economic, Social and Cultural Rights in 2000.

The following relevant Conventions have been ratified and are in force for Georgia (for full names see the list of Conventions in Part I above): 29, 52, 87, 88, 98, 100, 105, 111, 117, 122, 138, 142, and 182.

First reports on these Conventions have been requested or have only recently been received. With the exception of Convention No. 98, comments by the Committee of Experts are therefore not yet available.

Article 8

In its 2001 direct request on Convention No. 98, the Committee of Experts noted that the legislation of Georgia (articles 11(6), 24(2) of the Trade Union Law, 2 April 1997; articles 9(2) and 16(2) of the Law of Georgia on the Procedure of the Settlement of Collective Labour Disputes, 30 October 1998; articles 37 and 206 of the Labour Code as amended by the Act regarding modifications and amendments to the Georgian Labour Code, 12 November 1997) prohibits acts of anti-union discrimination. However, the Committee recalled that the existence of general legal provisions prohibiting acts of anti-union discrimination is not enough if they are not accompanied by effective and rapid procedures to ensure their application in practice. Effective and sufficiently dissuasive sanctions that guarantee the protection of workers against any act of anti-union discrimination by employers in taking up employment and in the course of employment should be provided in the law. The Committee requested the Government to indicate which procedures are available for workers, in the legislation, in case of acts of anti-union discrimination (dismissals, transfers, downgrading) and which sanctions can be applied in each of these cases.

The Committee also noted that the Trade Union Law of Georgia, 2 April 1997 (articles 5, 21(4) and 22) and the Collective Contracts and Agreements Law of Georgia, 10 December 1997 (article 9) prohibit acts of interference from employers in trade union activities. However, the Committee noted that the Government states in its report that despite the protection mentioned above, many employers in the new transnational and joint enterprises, directly or indirectly prevent the founding of trade unions. The Committee pointed out that the legislation should make express provisions for rapid appeal procedures, coupled with effective and dissuasive sanctions against acts of interference in order to ensure the application of the Convention. Moreover, to ensure that these measures receive the necessary publicity and are effective in practice, the relevant legislation should lay down these substantive provisions, as well as appeals and sanctions to guarantee their application explicitly. The Committee requested the Government to indicate the procedures that are available in the legislation for workers' organizations against acts of interference and the sanctions that can be applied in these cases.

C. Guatemala

Information concerning Guatemala has been supplied to the UN Committee on Economic, Social and Cultural Rights in 1995 and 1996.

The following relevant Conventions have been ratified and are in force for Guatemala (for full names see the list of Conventions in Part I above): 1, 11, 13, 14, 16, 19, 26, 29, 30, 58, 59, 77, 78, 79, 81, 87, 88, 90, 96, 98, 99, 100, 101, 103, 105, 106, 111, 112, 113, 117, 118, 119, 120, 122, 124, 127, 129, 131, 138, 141, 148, 154, 156, 159, 161, 162, 167, 169, and 182.

Article 6

In its 2001 observation on Convention No. 29, the Committee of Experts noted with satisfaction the repeal of Decree No. 19-86 which provided for the compulsory enlistment of hundreds of thousands of people in so-called Civil Self-Defence Patrols (PACs) and Voluntary

Civil Defence Committees (CVDCs) by Decree No. 143-96, which came into force on 30 December 1996.

The Governing Body stated in its conclusions adopted at its 276th session (November 1999) in respect to a representation under Article 24 of the ILO Constitution that "persons accused of having exacted forced labour have benefited from impunity in cases where the Attorney-General of the Republic of Guatemala has issued a decision concerning their responsibility and that the appropriate judicial action has not been taken against them". The Governing Body therefore urged the Government "to ensure the rapidity of the judicial processes and inquiries undertaken concerning the exaction of compulsory labour and to guarantee the imposition of penalties and their strict enforcement". In its 2001 observation on Convention No. 29, the Committee of Experts therefore recalled that in accordance with Article 25 of the Convention, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying the Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced. The Committee requested the Government to provide information in its next report on the measures, which it has taken to give effect to the above recommendations so that it can examine the manner in which these points have been followed up.

In its 2001 observation on Convention No. 105, the Committee of Experts drew the Government's attention to certain provisions of the Penal Code, which are not compatible with the Convention. Under section 47 of the Penal Code, sentences of imprisonment involving compulsory labour can be imposed as a punishment for the expression of certain political opinions, as a means of labour discipline or for participation in a strike, under the terms of sections 396, 419, 390 (2), and 430 of the Penal Code. The Committee requested the Government to bring the legislation in conformity with the Convention.

In its 2001 observation on Convention No. 111, the Committee of Experts recalled the need to reform the labour legislation in order to effectively ensure equality of opportunity and treatment in employment and occupation. It noted that the relevant provisions had not yet been amended although the draft labour code and draft labour procedure code had been submitted to the Congress of the Republic. Article 14bis of the Labour Code prohibits discrimination based on the grounds of race, religion, political beliefs and economic situation, but does not cover the other grounds provided for in the Convention (colour, sex, national extraction or social origin).

In its 2001 direct request on Convention No. 111, the Committee of Experts noted the promulgation of Ministerial Agreement No. 213-2000 providing for the establishment of the occupational training programme of the Ministry of Labour and Social Welfare, 7 July 2000. The Committee requested the Government to provide a copy of the plan and to report on the measures being taken to promote access to vocational training for women and indigenous peoples. The Committee also observed that the Government was intending to promote legislation classifying sexual harassment as an offence, punishable as an aggravated offence when committed against indigenous women.

In its 1999 direct request on Convention No. 156, the Committee of Experts noted that leave of absence in the case of illness of a child or dependent family member was not provided and the

Government's statement that there appear to be no national circumstances for establishing through legislation such types of leave which are referred to in Paragraph 23(1) and (2) of Recommendation No. 165. Nevertheless, the Government recalled that the provisions of the Recommendation may be applied by other means and states that there are currently a large number of collective agreements in which the system of according leave has been improved and extended. Consequently, the Committee requested copies of such collective agreements and information on any other measure adopted to promote this provision of the Convention.

The Committee noted with interest the development of the Community Homes Programme from which 16,050 children benefit and the opening of the Office for Regulating Child Day-Care Centres. The Committee also noted the information contained in the Handbook of Rights and Obligations of Working Women, published by the Ministry of Labour and Social Welfare which states, under the chapter "Creation of childcare centres" that it is an obligation of the employer to set up childcare centres when there is a group of more than 30 women working in his enterprise or workplace. The Committee requested precise information on the application of this measure. Furthermore, the Committee indicated that the measures designed to promote harmonization of labour and family responsibilities, such as childcare services, should not be specific to women.

In its 2000 direct request on Convention No. 159, the Committee of Experts noted from a report of the Guatemalan Social Security Institute (IGSS) that there is little opportunity for persons with disabilities who are marginalized in the labour market, and that it would focus instead on promoting self-employment. The Committee requested further information on the Government’s policy in response to this assessment, e.g. whether steps are being taken to combat marginalization and whether schemes to promote self-employment are working.

In its 2001 observation on Convention No. 169, the Committee of Experts stated that available information indicates that major problems remain in the implementation of the Peace Agreements as concerns the indigenous peoples of the country, and in the implementation of the Convention. A Central Organization for Rural and Urban Workers (CTC) report details, in respect of most of the Articles of the Convention, the lack of decentralization of administration to the regional level that was contemplated in order to provide indigenous peoples with a greater voice in the administration of their own affairs. It states that “(T)he Peace Agreements have facilitated dialogue between representatives of the Mayan organizations and the Government, but they have not generated real results; for example, the Executive Body has not consulted indigenous organizations and communities on the process of decentralization”.

The trade union organizations also commented on the lack of real consultation with the indigenous peoples of the country on the implementation of the Peace Agreements *(Article 6 of the Convention)*. They stated that although mechanisms are provided for, they are not actually functioning. The Government had indicated in its last report, on this question, that the Congressional Committee on Indigenous Communities which has a majority of indigenous members constitutes a direct channel for the indigenous peoples to make their views known.

The Committee of Experts noted also the following comment by MINUGUA in its September 2001 report: “The Mission has noted on several occasions that the commitments made

concerning the indigenous peoples are among those which have been least implemented. The overall balance of the application of the Agreements indicates that most of the actions which were provided for to overcome discrimination and provide to the indigenous peoples the place they should have in the Guatemalan nation, are still awaiting fulfilment. This does not correspond to the changes proposed in the Agreements, but instead favours the persistence of a monocultural and exclusive model." (Unofficial translation, paragraph 9.) The Committee urged the Government to renew its efforts to overcome difficulties in the application of the Convention and the Peace Agreements, and to continue to provide information to the Committee on how it is accomplishing this.

Article 7

Equal remuneration

In its 2001 direct request on Convention No. 100, the Committee of Experts took up the issue of how the principle of equal remuneration for men and women workers for work of equal value is ensured in Guatemalan legislation or in practice. Article 102(c) of the Guatemalan Constitution provides for "equal wages for equal work performed under equivalent working conditions, and equal conditions of seniority and efficiency". Section 89 of the Labour Code provides that "equal wages shall be paid for equal work performed in equivalent posts, under the same conditions of efficiency and seniority within the same enterprise". The Government has indicated in previous reports that the principle of the Convention was applied in practice by minimum wage tables and in collective agreements governing working conditions. The Committee referred the Government to the language of the Convention, which calls for equal remuneration for men and women workers to be established "for work of equal value". The scope of the Convention reaches beyond a reference to the "same" or "similar" work, using instead the "value" of the work as the point of comparison. The Convention is also aimed at eliminating inequality of remuneration in female-dominated sectors, where jobs traditionally considered as "feminine" may be undervalued due to sex stereotyping.

The Committee also returned to its comments concerning the practical application of section 89 of the Labour Code, which provides, in the pertinent part: In complaints filed by female workers alleging salary discrimination on the basis of sex, the employer shall bear the burden of showing that the work performed by the complainant is of inferior quality and value. The Government was asked to indicate whether there are any regulations or guidelines indicating the manner in which the employer may satisfy the burden of proof imposed by section 89. The Committee noted that, in the absence of a system of objective job evaluation such as that contemplated in *Article 3* of the Convention, the elements that the employer is required to show under section 89 could easily be interpreted in a subjective manner, thus lending themselves to possible discriminatory application and possibly reinforcing traditional notions discriminating against working women.

The Government indicated that no complaints have been brought by women workers under section 89 of the Labour Code. The Committee asked the Government to provide information on the steps taken or contemplated to promote the application of the Convention, including the dissemination of information to the public regarding the right of men and women workers to

equal remuneration, the posting of notices regarding equal remuneration legislation in the workplace, seminars, presentations and other initiatives designed to ensure that workers are aware of their rights under section 89. The Government also stated that no complaints have been made to the labour inspectorate or to the labour and social welfare tribunals regarding the application of the Convention.

Safe and healthy working conditions

In its 1999 direct request on Convention No. 162, the Committee of Experts noted from the Government's report that the draft amendments to the Occupational Safety and Health Regulations would contain a chapter on the prevention and control of exposure to asbestos.

In its 2000 observation on Convention No. 127, the Committee of Experts referred to Section 202 of the Labour Code providing for the promulgation of regulations to specify the admissible weight of loads to be transported by a single person, with due consideration being given to factors such as the age, sex and physical condition of the worker. In this respect, the Committee noted the provisions of section 6 of Administrative Order No. 885, 1990, providing that the maximum weight that may be carried by a male worker under the age of 60 is 120 pounds, equivalent to 60 kg. The Committee drew the Government's attention to Paragraph 14 of the Maximum Weight Recommendation, 1967 (No. 128), which provides that where the maximum permissible weight which may be transported by one adult male worker is more than 55 kg, measures should be taken as speedily as possible to reduce it to that level. The Committee noted with interest the Government's indication that a pre-draft concerning a new regulation on hygiene and security was under preparation providing for a maximum weight of 50 kg that may be carried by a male worker. Nevertheless, the Committee invited the Government to reconsider as well the provision of section 6 of Administrative Order No. 885, 1990, with respect to the maximum weight that may be carried by a female worker.

Rest, limitation of working hours and holidays with pay

In its 1998 observation on Convention No. 1, the Committee of Experts referred to section 122 of the Labour Code, which provides that a working day including overtime could not exceed 12 hours. Noting that the Labour Code, as amended in 1995, reproduces this same provision, the Committee recalled once again that the exceptions envisaged by Article 6 of the Convention must remain within reasonable limits, and the authorization of up to four overtime hours a day without other guarantees, such as for example a monthly or an annual limit, considerably exceeds the exceptions authorized by the Convention and is resolutely contrary to the spirit in which it was drawn up. The Government stated in its report that it envisages giving effect to the Committee's comments by taking the necessary measures to determine, after consultation with the representative organizations of employers and workers, the circumstances in which overtime hours may be worked and the maximum number of overtime hours which may be authorized in each case.

Article 8

In its 1999 observation on Convention No. 11, the Committee of Experts recalled the prohibition of strikes and work stoppages by agricultural workers during the harvest, with a few exceptions (sections 243(a) and 249 of the 1947 Labour Code, as amended in 1992). It

noted the Government's indication that ratification by Guatemala of the Convention postdates the Labour Code and the provisions of the former therefore prevail over the latter and it agrees with the Committee that agricultural workers must not suffer discrimination compared with other workers. In these circumstances, for the purpose of eradicating any ambiguity on the matter, the Committee requested the Government to take measures to repeal the provisions in question.

In its 2001 observation on Convention No. 87, the Committee of Experts noted with satisfaction the adoption by the Congress of the Republic of Legislative Decree No. 13-2001 of 25 April and Legislative Decree No. 18-2001 of 14 May, which settle a number of several issues raised by the Committee. It observes, however, that the abovementioned legislative decrees do not cover other provisions of the legislation which are not in conformity with the Convention, namely: the requirement of being Guatemalan in order to establish a provisional trade union executive committee (it should be noted that this requirement derives from the National Constitution); and the requirement to be actually working in the enterprise or the occupation in order to be eligible for trade union office (sections 220 and 223 of the Code). The Committee requested that the Government take steps to bring the legislation fully into conformity with the Convention on these points.

In its 2001 observation on Convention No. 98, the Committee of Experts noted with satisfaction that the Legislative Decree No. 13-2001 of 25 April, in response to a request from the Committee, eliminates (pursuant to new section 222 of the Labour Code) the requirement of two-thirds of the union's membership in order for a draft collective agreement to be negotiated and signed, as prescribed in regulation 2(d) of the Regulations on Collective Agreements, of 19 May 1994. The Committee also noted with interest that Legislative Decree No. 18-2001 of 14 May substantially reinforces the obligation to reinstate workers dismissed on trade union grounds and the penalties for breach of the Labour Code. The Committee nonetheless observed that the reform did not address another point raised concerning the legislation: the lack of any consultation procedure (in the context of collective bargaining in the public sector, regulated by Legislative Decree No. 35-96), to enable trade unions to express their views to the financial authorities so that the latter may take due account of them in preparing the budget.

Article 10

Maternity protection

In its 2000 direct request on Convention No.103, the Committee of Experts noted from the statistics supplied by the Government that the number of workers belonging to the Guatemalan Social Security Institute (IGSS) increased slightly in 1998, although the proportion of the economically active population covered by the social security scheme, which includes maternity protection, remains stable. The Committee again stressed the importance of extending maternity protection through social security to all women workers covered by the Convention.

In its previous comments on the Convention, the Committee of Experts had stressed the need to amend the legislation in force which allows the employer to be required to bear the cost of

maternity benefits for women workers who are not yet covered by the social security scheme and women workers who are members of the social security scheme but have not completed the requisite qualifying period. The Government stated that, because the social security scheme extends neither to all workers nor to the whole territory, many women workers are not covered by the IGSS maternity benefits and the State ensures the medical coverage of such workers out of public assistance funds. However, these funds could not as yet pay maternity benefits. The Government considered that, for the time being, the employer's liability was still the only means of providing maternity benefits for women workers who are not protected by the IGSS.

Protection of children and young persons in relation to employment and work

In its 1998 direct request on Convention No. 59, the Committee of Experts referred to Article 3 of the Convention permits an exception from the minimum age of 15 years only in technical schools provided that the work done is approved and supervised by public authority but not for apprenticeship in undertakings. It noted that section 150 of the Labour Code provides for the possibility of granting exceptional permission to work for children under 14 years, on condition, among others, that the minor is to work by way of apprenticeship. Recalling that the Convention requires the minimum age of 15 years for apprenticeship in industrial undertakings, the Committee asked the Government to clarify the effect given to the Convention in this respect.

In its 2000 direct request on Convention No. 138, the Committee noted that the Regulation of Occupational Hygiene and Safety provides for the measures to be taken to ensure safety and health at working general but does not include any list of work prohibited for young persons under the age of 18 years. Regarding the conditions to be fulfilled for the granting of written exceptions by the General Labour Inspection to the minimum age of 14 years under section 150 of the Labour Code, the Committee noted that the Agreement to establish the National Commission for Minors supplied by the Government contains no provision regulating or limiting the work of minors under 12 years of age, or the work of persons above the age of 14 years who have not yet completed their compulsory education. It also noted that the form for authorization of work for minors mentions the necessity of a written authorization for children under 14 years of age, but does not refer to the conditions upon which such authorization may be granted. The government has submitted a report concerning Convention No. 138 which will be examined by the Committee of Experts at 2002 session.

The Committee of Experts has furthermore addressed direct requests to the Government in 2001 on Conventions Nos. 169, 78, and 77, in 1999 on Conventions Nos. 154, 117, 30, and 29, in 1998 on Conventions Nos. 131, 112, and 88, and in 1997 on Convention No. 141.

D. Lithuania

Information concerning Lithuania has not yet been supplied to the UN Committee on Economic, Social and Cultural Rights.

The following relevant Conventions have been ratified and are in force for Lithuania (for full names see the list of Conventions in Part I above): 1, 6, 11, 14, 19, 24, 27, 29, 47, 73, 79, 81,87, 88, 90, 98, 100, 105, 111, 127, 131, 135, 138, 142, 154, 159, and 171.

Article 6

In its 2001 direct request on Convention No. 29, the Committee of Experts noted that, according to section 31(2) of the Law on the Organization of the National Defence System and Military Service, 1998, the duration of a contract to be signed with officers who have graduated from the Lithuanian Military Academy is until they reach the age for their transfer to the reserve. Section 37 of the same Law stipulates that the Minister of National Defence may allow professional military servicemen to terminate their contract prior to expiration for valid reasons, and a serviceman who wilfully terminates the contract prior to expiration without the approval of the Minister is considered absent without leave and dealt with in accordance with the law. In this respect, the Committee recalled that the effect of statutory provisions preventing termination of employment of indefinite duration by means of notice of reasonable length is to turn a contractual relationship based on the will of the parties into service by compulsion of law, and is thus incompatible with the Convention. On the other hand, the provisions excepting compulsory military service from the prohibition of forced labour under the Convention do not apply to career military service and may not be invoked to deprive persons who have voluntarily entered into an engagement of the right to leave the service in peacetime within a reasonable period, either at specified intervals, or with previous notice, subject to the conditions which may normally be required to ensure the continuity of the service. The Committee hoped that the necessary measures would be taken to amend the above provisions of the Law on the Organization of the National Defence System and Military Service in order to bring it into conformity with the Convention on this point.

The Committee of Experts also noted that in the “open-type” institutions of correctional labour convicts are allowed to work for private individuals or enterprises. The Government indicated that such labour was not compulsory and that the convicts themselves freely choose it; that it is carried out on the basis of a contract concluded between the employer and the administration of the penitentiary institution and that there are social security provisions and a possibility of supervision by the administration of conditions of work and remuneration of convicts. The Committee requested the Government to supply further information on a number of issues.

In its 2001 direct request on Convention No. 111, the Committee of Experts noted the information provided by the Government as regards the employment situation of the various minority groups living in Lithuania, including the Roma community. The statistics revealed that members of minority groups are more likely to be unemployed than others. The Committee noted the Government’s statement that the economic activity of certain groups is lower due to language barriers, ethnic peculiarity, and their concentration in economically and socially less developed areas. According to the Government members of minority communities are less educated which hampers their integration into the labour market. The Committee noted that the programme for increasing employment 2001-02 aims, inter alia, at ensuring equal opportunities for all persons as regards access to employment, irrespective of their sex, nationality, race,

disabilities and other conditions. The Committee also noted that the Government has adopted a programme concerning the integration of the Roma community into society for the years 2001-05. Among other measures, this programme will include the development of vocational training opportunities for Roma people. The Committee hoped the Government was taking positive measures in addition to training and employment-creation programmes to promote equal access to education, training institutions and jobs for the various members of minority groups.

In its 2000 direct request on Convention No. 159, the Committee of Experts noted that the Government has clearly identified the weaknesses in its system of rehabilitation and employment for persons with disabilities, in particular the lack of adequate funding for education and training. The Committee understood the financial difficulties the Government was currently facing during the process of economic restructuring. It recalled, however, the fundamental importance of education and training in the process of rehabilitation and employment of persons with disabilities. It encouraged the Government to give high priority to funding for promotion of rehabilitation and employment for these potential workers.

The Government also stated that a tripartite commission had been set up under the Lithuanian labour exchange. This commission may make proposals on implementation of policies, and discusses enforcement of law and priority business guidelines. The Government has also established a council for the affairs of the disabled to settle questions related to the disabled. This council includes various ministries, with representation from organizations of persons with disabilities. The Committee requested further information on whether the tripartite commission is consulted on the formulation of policies related to rehabilitation and employment of persons with disabilities, and whether representatives of disabled persons are included.

Article 7

Remuneration

In its 2000 direct request on Convention No. 131, the Committee of Experts noted that according to the 1999 report of the State Labour Inspection, violations of the labour legislation were detected in 70 per cent of inspected enterprises, while infringements of the Law on Wages were observed in 30 per cent of inspected enterprises, including delayed payment or non-payment of the minimum wage, bonuses and other allowances. The Committee drew the Government’s attention to the need to adopt the necessary measures to establish appropriate sanctions in the event of infringements of standards respecting minimum wages with a view to guaranteeing workers the payment of such rates. In this regard, the Committee noted that by Act No. VIII-1486 of 21 December 1999, the Government revised the administrative code setting higher fines for breach of the laws and regulations concerning the calculation and payment of labour remuneration.

Equal remuneration

In its 2000 observation on Convention No. 100, the Committee of Experts noted the adoption on 1 December 1998 of the Act on Equal Opportunities, which entered into force on 1 March 1999. The Committee noted with satisfaction that section 5(4) of the Act expresses the

principle of the Convention, establishing that, when implementing equal rights for women and men at the workplace, employers must provide equal remuneration for work of equal value. The Committee further noted that section 6(1) of the Act establishes a presumption of discrimination on the part of the employer if, because of the person's sex, the employer applies to an employee less (more) favourable terms of employment or payment for work.

In its 2000 direct request on Convention No. 100, the Committee of Experts, inter alia, noted with interest the statistical data supplied by the Government which show a narrowing of the wage gap between men and women since April 1998. The Government indicated that in April 1999, women in private sector employment earned on average 20 per cent less than men (compared to an overall 30 per cent wage disparity in 1998). As in 1997, the wage gap is still wider in the civil service, where women's average monthly earnings were 30 per cent less than men's (compared to a 40 per cent difference in 1998). The Government stated also that women receive less pay in the public sector because men occupy higher positions, and perform work which requires higher qualifications.

Article 8

In its 2000 observation on Convention No.87, the Committee of Experts requested the Government to amend section 10 of the Act of 1992 on the settlement of collective disputes to lift the prohibition of the right to strike by workers who are not employed in essential services in the strict sense of the term and to supply information on the compensatory guarantees afforded to workers employed in essential services in the strict sense. In doing so, the Committee took into account the information provided by the Lithuanian Workers' Union (LWU), which states that it was practically impossible to declare a legal strike under the Act of 1992 on the settlement of collective disputes. The Committee considered that while authorities may establish a system of minimum service in sectors such as public transport, it must be a genuinely minimum service, that is one which is limited to meeting the basic needs of the population while maintaining the effectiveness of strike pressure.

In its 1999 direct request on Convention No. 154, the Committee noted that section 3 of the Act regarding collective agreements of 4 June 1991 (I-1201) prohibits state and municipal public servants from concluding collective agreements. The Committee recalled that the Convention allows recourse to special modalities in respect of the public service and requested the Government to indicate in its next report whether these public servants enjoy the right to bargain collectively as regards their conditions of employment, even if they are not entitled to conclude collective agreements.

The Committee of Experts has furthermore addresses direct requests to the Government in 2001 on Conventions Nos. 14, 24, 73, 98, and 138, in 2000 on Conventions Nos. 4, 79, 88, 90, 142, in 1999 on Convention No. 1, and in 1998 on Conventions Nos. 27, 135, and 173.

E. Poland

Information concerning has been supplied to the UN Committee on Economic, Social and Cultural Rights in 1979, 1981, 1986, 1987, 1989, and 1998.

The following relevant Conventions have been ratified and are in force for Poland (for full names see the list of Conventions in Part I above): 2, 6, 11, 12, 13, 14, 16, 17, 18, 19, 24, 25, 27, 29, 35, 36, 37, 38, 39, 40, 42, 62, 73, 77, 78, 79, 81, 87, 90, 96, 98, 99, 100, 101, 103, 105, 111, 113, 115, 119, 120, 122, 124, 127, 129,135, 138, 140, 141, 142, 151,178, and 182.

Article 6

In its 2001 direct request on Convention No. 29, the Committee of Experts recalled that the Act on the Employment of Persons Deprived of Liberty, of 28 August 1997, which aims at increasing the employment opportunities of inmates, provides for the creation of enterprises attached to penitentiary institutions, which, inter alia, may take the form of a company in which the State holds more than 50 per cent of shares. The Committee also noted from the provisions of Chapter 5 of the Penal Executory Code, of 6 June 1997, which governs the employment of prisoners, that inmates are employed on the basis of an order assigning them to a specific job, on the basis of an employment contract or other legal ground; that their employment under an employment contract can take place with the consent of the director of a penitentiary institution who defines the conditions of employment; and that labour law provisions concerning hours of work and occupational safety and health are applicable to prison labour. An inmate can be discharged from the obligation to work if he or she is undergoing training or if it is justified by other reasons.

In this context, the Government indicated in its latest report that the employment of convicted persons takes place primarily on the basis of an order assigning them to a specific job ("a referral to work"), which requires the conclusion of a contract between a penal institution and an employer; the convicted person's consent is not required, since the legislation provides for an obligation of prisoners to perform labour. The Government further states that the penal institutions' administration has a permanent opportunity of supervising the conditions of work of convicted persons. While noting this information, the Committee recalled that, under *Article 2, paragraph 2(c)*, of the Convention, work or service exacted from any person as a consequence of a conviction in a court of law is excluded from the scope of the Convention if two conditions are met, namely: (i) that the said work or service is carried out under the supervision and control of a public authority; and (ii) that the said person is not hired to or placed at the disposal of private individuals, companies or associations.

Article 7

Remuneration

In its 1998 direct request on Convention No. 99, the Committee of Experts noted the Government's indication that minimum wage in Poland is fixed at the central level in one amount for the national economy as a whole. The minimum wage was determined for half-year periods in the course of consultation carried out by the Government with the participation of national trade union representatives and employers. All employers are obliged to respect its level.

Equal remuneration

In its 2001 direct request on Convention No. 100, the Committee of Experts noted that the Government is considering introducing in the national labour law the concept of "work of equal value" and criteria to determine the value of different kinds of work. Recalling the Government's acknowledgment included in its previous report that in order to address the wage differential between male and female workers, particular activities to promote women into better paid areas and posts are required, the Committee requested the Government to provide information on any measures taken or envisaged to reduce the existing pay gap between men and women. The Committee asked again that the Government consider the possibility of examining the job evaluation systems in operation to ensure that the factors used capture all the different aspects inherent in the work undertaken by both sexes.

Article 8

In its 2000 observation on Convention No. 87, the Committee of Experts noted the adoption in 1998 of a new law on civil service. It noted that, according to the Government, the new legislation does not provide for any prohibition of association in the civil corps. The Committee noted however that the Civil Service corps now comprises two categories of employees: "Civil Service employees … employed on the basis of an employment contract" (article 3.1) and "Civil servants … employed by virtue of nomination" (article 3.2), with different rights:

- Article 69(2) of the Civil Service Act provides that Civil Service corps members are not allowed to publicly manifest their political beliefs. The Committee recalled in this respect that trade union activities cannot be restricted solely to occupational matters, since a government's choice of a general policy may have an impact on workers in both the private and public sectors, and that public servants in the exercise of their trade union activities should be able to voice their opinions on political issues in the broad sense of the term and, in particular, to express their views publicly on a government's economic and social policy;

-Article 69(3) provides that "Civil Service corps members are not allowed to participate in strikes or actions of protest, which will interfere with the normal functioning of the office". The Committee recalled that the prohibition of the right to strike in the public service should be limited to public servants exercising authority in the name of the State and that, in borderline cases, one solution might be to provide for the maintaining by a defined and limited category of staff of a negotiated minimum service when a *total and prolonged* stoppage might result in *serious* consequences for the public;

-Article 69(4) provides that "Civil servants are not allowed to perform functions within trade unions". The Committee recalled that the autonomy of organizations can only be effectively guaranteed if their members have the right to elect their representatives in full freedom, which does not appear to be the case under this provision.

The Committee of Experts requested the Government to amend these provisions with a view to bringing the legislation into full conformity with the Convention, and to provide information in its next report on progress in this respect.

Referring to the need to amend the Act of 25 October 1990 concerning the restitution of trade union assets, the Committee noted the Government's statement that the Social Revendication Commission was competent in this domain, but was bound to observe that no material progress had been made as regards the draft amendments which were to be examined by the Council of Ministers in the autumn of 1998. The Committee, once again, expressed the hope that these issues will be resolved in the very near future.

Referring to the need to amend the provisions of trade union legislation on the representative nature of trade union organizations, the Committee noted that two draft pieces of legislation were currently being debated in Parliament: the Act concerning the change of the Labour Code and the change of some Acts, which introduces the criteria of representativeness in social dialogue and collective bargaining at an enterprise level, and eliminates any doubts concerning representativeness at the supra-enterprise level; and the Act concerning the Commission for Socio-Economic Issues, which provides for criteria of representativeness for organizations of social partners in social dialogue at the national level.

Article 10

Maternity protection

In its 1998 direct request on Convention No. 103, the Committee of Experts noted the Government's indications that the provisions under section 177(1) of the Labour Code ensures adequate employment protection for women who are pregnant or absent on maternity leave to the extent that, under this section, women who are pregnant or absent on maternity leave may not be given notice of dismissal or dismissed under previous notice, irrespective of grounds for such termination. However, such dismissal may be possible, upon agreement with the trade union organization represented in the enterprise, if grounds for such termination exist. The Government added that the legislator has also provided for protective mechanisms to prevent the abuse of this procedure.

Protection of children and young persons in relation to employment and work

In its 2000 direct request on Convention No. 138, the Committee noted that in accordance with the Civil Code, a person aged 13-15 years may be employed on the basis of the "mandatory contract", if such a contract fulfils prescribed conditions, and namely: (i) it may not have an apparent character, to conceal the fact that the minor has been employed to perform full-time work as an employee in a legal and organizational regime determined for a person of age; (ii) it should not entrust a young person with work prohibited for young workers; (iii) performance entrusted should allow minors to finish their education at the level of primary school and college; (iv) its validity depends on its approval by statutory representatives of the young person. The Committee recalled that the Convention authorizes the employment of children between 13 and 15 years of age only on light work that is not likely to be harmful, in particular, to their health or development and must be determined by the competent authorities, which,

moreover, must prescribe the number of hours during which and the conditions in which such employment or work may be undertaken (Article 7 of the Convention). In this connection, the Committee asked the Government to indicate: (a) whether provisions limiting the employment of children under "mandatory contract" to light work exist; and (b) whether conditions of such employment are prescribed, as required in this Article of the Convention. If not, the Committee requested the Government to take the necessary measures to ensure the protection of children between 13 and 15 years of age who were engaged on the basis of the "mandatory contract" and to provide that the work performed by these children is light work, in conformity with Article 7.

The Committee of Experts noted that in 1999, 1,494 inspections were carried out by the State Labour Inspection. It noted that, according to the results of these inspections, persons who have completed primary school but were under 15 years of age were being employed without the consent of their statutory representative (2.6 per cent of the total number of employers covered by the inspection), or without consultation with a psychologist or pedagogue (5 per cent of the total number of employers covered by the inspection), or with the purpose of preparation for performing definite work but without the medical certificate on the absence of contraindications for employment (1.6 per cent of the total number of employers covered by the inspection). Infringements concerned also 1,348 juvenile workers (persons over 15 and under 18 years of age) without medical certificates confirming that a given work is not harmful for their health. The Committee recalled that the minimum age for admission to employment or work specified by the Government is 15 years. The Committee hoped that the Government will make every effort to take the necessary measures, including the provision of appropriate penalties, in order to ensure the effective enforcement of the provisions of the Convention in these cases.

The Committee of Experts furthermore addressed direct requests to the Government in 2001 on Conventions Nos.16, 62, 73, 113, and 122, in 2000 on Conventions Nos. 79, 115, 129, and 140, in 1999 on Conventions Nos. 96, and 151, and in 1998 on Conventions Nos. 99, 120, and 142.

F. Slovak Republic

Information concerning the Slovak Republic has not yet been supplied to the UN Committee on Economic, Social and Cultural Rights.

The following relevant Conventions have been ratified and are in force for the Slovak Republic (for full names see the list of Conventions in Part I above): 1, 11, 12, 13, 14, 17, 18, 19, 26, 27, 29, 34, 37, 38, 39, 40, 42, 52, 77, 78, 87, 88, 90, 98, 99, 100, 102, 105, 111, 115, 120, 122, 123, 124, 128, 130, 136, 138, 140, 142, 148, 155, 156, 159, 161, 171, 182, and 183.

Article 6

In its 2001 direct request on Convention No. 29, the Committee of Experts noted the Government's indications in its latest report that, since November 1996, there had been no employment of prisoners by state-owned companies (in the sense of prisoners being included on the employer's staff) because of a lack of interest of these companies to employ prisoners.

As regards cooperation of prison authorities with juridical and physical persons, including the rendering to them of services in the form of the prisoners' labour, the Government indicated that such activities are carried out on the basis of a contract between the prison establishments and private parties; the work of prisoners is performed under permanent supervision by prison services and the role of employer in relation to prisoners is performed by the prison administration. The Government considered that in this situation the prisoner's consent to perform labour is not needed.

While noting the above information, the Committee recalled Article 2 and requested the Government to describe the organization of prisoners' work for private persons and entities, both inside and outside prison premises and to supply specimen copies of agreements concluded between prison authorities and private users of prison labour. The Government was also requested to indicate any measures taken to ensure that any work or service by prisoners for private persons is performed in conditions approximating a free employment relationship.

In its 2001 direct request on Convention No. 111, the Committee of Experts followed-up up on CEDAW's concern regarding promotion of traditional roles for women, such as the increase in the number of "household management schools", and the highly segregated labour market with men and women in different employment sectors. The Committee asked the Government to provide information on the measures taken and contemplated to facilitate the access of women to a wide range of occupational training and employment opportunities, including statistical information on labour market participation disaggregated by sex, sector and occupation. With reference to equality of opportunity and treatment for minority groups, including the Hungarian minority, the Committee noted the adoption of Act No. 184/1999 on National Minorities' Languages, the establishment of the post of Deputy Prime Minister of Human Rights, National Minorities and Regional Development in 1998, and the appointment of a Commissioner for Addressing Roma Minority Issues in March 1999. In this respect, the Committee noted that CERD had expressed concern regarding discrimination against members of the Roma community, including with regard to access to opportunities for recruitment and employment, and regarding the high level of drop-out rates among Roma children. The Committee requested the Government to provide statistical and other information on measures taken and their impact.

In its 2001 direct request on Convention No. 122, the Committee of Experts noted that the Government has targeted small and medium enterprises (SMEs) as a source of new jobs and has enacted legislation more favourable to SMEs and made loans available. It had also adopted Act No. 254/1998 on increasing public works. It requested further information on the employment objectives of the Government's privatization policy. The Committee also noted that Act No. 387/1996 on employment includes provisions for promoting employment of persons with disabilities. The Committee noted that no mention is made of measures taken to assist various minority groups, which have been particularly affected by the increase in unemployment.

Article 7

Equal remuneration

In its 2001 direct request on Convention No. 100, the Committee of Experts noted the Government's indication that in order to harmonize the legislation with Directive No. 75/117/EEC of the Council of the European Union on Approximation of the Member States Laws on Application of the Principle of Equal Remuneration for Men and Women, the Bill of the new Labour Code provided that the wage conditions must be equal for men and women without discrimination based on sex. The Committee also noted that in order to harmonize the Labour Code with Directive No. 97/80/EC concerning the Burden of Proof in Cases of Discrimination based on Sex, the Labour Code Bill provided that the burden of proof rests with the employer. The Committee hoped that the draft Labour Code will incorporate the requirement of equal remuneration for work of equal value and that it would not contain the criterion of the "social significance of the job" in the determination of the remuneration of workers.

The Committee noted that the Government reiterated its indication that wage compensation and other payments are not wages or salary and that in the budgetary sphere, where the majority of employees are remunerated in accordance with the Salary Act and relevant implementary regulations, a possible occurrence of unequal earnings for equal work cannot be excluded in regard to floating components of the salary. In this connection, it noted with concern that the high-level collective labour agreement signed in the leather and footwear industry for the years 1998-2001 provides at article 13 that: "Remuneration granted under the terms of specific statutory regulations, depending on the work shall not be considered remuneration." The Committee asked the Government to supply information on the measures taken or envisaged to ensure, including in collective agreements, that the definition of emoluments other than wages provided in statutory regulations covers the concept of remuneration as it appears in the Convention.

The Committee noted that Slovakia has a high employment rate for women. According to the sample survey of the labour force of the Statistical Office of the Slovak Republic, in 1999 women constituted 45 per cent of the economically active population. However, as indicated in the report submitted by the Government in 1998 under the UN Convention on the Elimination of All Forms of Discrimination against Women, women experience inequality in employment, including with regard to reduced hiring opportunities and unequal pay for work of equal value. According to the statistics provided by the Government with its report, in 1998 women were concentrated in the education, health and public administration sectors. Moreover, according to the study "Gender statistics in Slovakia" done under the auspices of the Slovak Ministry of Labour, in 1997 the average monthly earnings of women were 21.5 per cent less than men's. According to this study earnings differences are mainly caused by differing employment classifications, with a higher number of women working in administrative functions and a lower number of women in higher and leading positions.

Safe and healthy working conditions

In its 2001 direct request on Convention No. 155, the Committee of Experts that Act No. 330/1996, as amended by Act No. 95/2000, allows broader application of the provisions of the Convention. The provisions of paragraph 16 the Act No. 330/1996, as amended by Act No. 95/2000, which provide, inter alia, that the Ministry of Health of the Slovak Republic shall constitute by generally binding legal regulation, healthy working conditions and health

protection of employees against chemical, physical and biological factors, the manner of notifying and ascertaining causes of occupational diseases and other work-related health impairments and risks of occupational diseases, keeping their list and registration, details about the extent, contents and conditions of carrying out occupational health service.

Article 8

In its 2000 observation on Convention No. 11, the Committee of Experts noted with satisfaction that paragraph 2 of Law No. 83 of 1990 respecting the association of citizens, as amended by Law No. 300 of 19 July 1990 (section 1) guarantees the right of association to all citizens and that, according to the Government, the rights of agricultural workers are regulated by the same laws and regulations as other persons' rights.

In its 2001 observation on Convention No. 87, the Committee of Experts recalled its request for clarifications regarding certain provisions of Act No. 83 of 1990 on citizens' associations, and on Act No. 2 of 5 December 1990 on collective bargaining. As concerns the Act respecting citizens' associations, the Committee noted the Government's indication that foreign workers may be candidates for trade union office, regardless of their period of residence in the country, by virtue of section 20 of Act No. 83/1990 on citizens' associations, as amended in 1991 and 1993. Regarding the Act on collective bargaining, the Committee had asked the Government to provide information on the measures taken or envisaged to reduce the required majority to hold a strike at least with regard to large bargaining units. In its latest report, the Government indicated that amendments to section 17 of the Act on collective bargaining were adopted by the National Council of the Slovak Republic on 18 May 2001. As amended, section 17 of the Act on collective bargaining provides that a trade union may decide to hold a strike upon the approval of an absolute majority of the workers participating in the strike ballot, provided that at least an absolute majority of the workers in the bargaining unit participate in the strike ballot. The Committee noted with satisfaction that the amended disposition of the Act on collective bargaining is compatible with Article 3 of the Convention.

Article 10

Protection of children and young persons in relation to employment and work

In its 2001 direct request on Convention No. 90, the Committee of Experts noted with interest that article 38 of the Constitution provides that young persons and persons with impaired health are entitled to enhanced health protection at work as well as special working conditions, special protection in labour relations and assistance in vocational training.

The Committee of Experts has furthermore addressed direct requests to the Government in 2001 on Conventions Nos. 12, 19, 102, 115, 123, 128, 130, 142, and 148, in 2000 on Conventions Nos. 27 and 42, in 1999 on Convention No. 88, and in 1998 on Conventions Nos. 26 and 34.

G. Solomon Islands

Information concerning Solomon Islands has been supplied to the UN Committee on Economic, Social and Cultural Rights in 1998.

The following relevant Conventions have been ratified and are in force for Solomon Islands (for full names see the list of Conventions in Part I above): 11, 12, 14, 16, 19, 26, 42, and 81. In 2001, the Committee of Experts noted with regret that for the fourth year in succession, the reports due have not been received.

Article 6

In its 2001 direct request on Convention No. 29, the Committee of Experts recalled the Government's statement that sections 74 and 75 of the Labour Ordinance (1960) relating to forced labour had been repealed by the Employment Act of 1981. The Committee therefore requested the Government to indicate whether any other legislative provisions had been adopted since that time to replace the above-mentioned section 75, which made the exaction of forced labour punishable as an offence, and, if not, how effect is given or is proposed to be given to *Article 25 of the Convention* concerning penalties to be imposed for the illegal exaction of forced or compulsory labour. The Committee also recalled that section 6 of the Constitution of the Solomon Islands provides for protection from slavery and forced labour (paragraphs (1) and (2)) and lays down exclusions from the expression "forced labour" (paragraph (3)).

Article 7

Safe and healthy working conditions

In its 2001 direct request on Convention No 81, the Committee of Experts noted that inspections should be carried out twice a year for every establishment but that this frequency was not achieved because of financial constraints. Only one vehicle was available for all inspectors and labour inspectors were not reimbursed for the cost of their duty travel. The Committee noted that a request for an increased budget had been made with a view to improving the practical working conditions of labour inspectors. It would be grateful if the Government would supply information on the results of this request and on the question of installing a second inspection office in the Malaita province for the same purpose.

The Committee of Experts furthermore addressed direct requests to the Government in 2001 on Conventions Nos. 14, 16, and 26

ANNEX

Index of countries on which the ILO has supplied information since 1978

Country	Document reference
Afghanistan	E/1986/60 E/1989/6 E/1990/9 E/1991/4
Algeria	E/1995/127
Argentina	E/1995/5 E/C.12/1999/SA/1
Armenia	E/C.12/1999/SA/1
Australia	E/1979/33 E/1981/41 E/1985/63 E/1986/60
Austria	E/1981/41 E/1987/59 E/1988/6 E/1995/5
Azerbaijan	E/1997/55
Barbados	E/1982/41
Belgium	E/1994/63
Bulgaria	E/1983/40 E/1980/35 E/1985/63 E/1988/6 E/1998/17 E/C.12/1999/SA/1
Belarus	E/1979/33 E/1981/41 E/1985/63 E/1987/59 E/1996/98
Benin	E.CN.12/2002/SA/1
Cameroon	E/1998/6
Canada	E/1982/41 E/1988/6 E/1989/6 E/1994/5 E/1998/17

Central African Republic	E/1997/55
Chile	E/1979/33 E/1981/41 E/1985/63 E/1988/6
Colombia	E/1979/33 E/1985/63 E/1990/9 E/1995/127
Costa Rica	E/1990/9 E/1991/4
Cyprus	E/1979/33 E/1981/41 E/1985/63 E/1986/60 E/1989/6
Czech and Slovak Federal Republic	E/1979/33 E/1981/41 E/1986/60 E/1987/59
Czech Republic	E.CN.12/2002/SA/1
Denmark	E/1979/33 E/1981/41 E/1985/63 E/1987/59 E/1998/17
Dominican Republic	E/1990/9 E/1991/4 E/1995/127 E/1996/98
Ecuador	E/1978/27 E/1985/63 E/1990/90 E/1991/4
Egypt	E/C.12/2000/SA/1
El Salvador	E/1995/127 E/1996/40
Finland	E/1979/33 E/1981/41 E/1985/63 E/1986/60 E/1996/98
France	E/1986/60 E/1989/6

Georgia	E/C.12/2000/SA/1
German Democratic Republic	E/1978/27 E/1981/41 E/1985/63 E/1987/59
Germany, Federal Republic of	E/1979/33 E/1981/41 E/1986/60 E/1987/59
Guatemala	E/1995/127 E/1996/40
Guinea	E/1996/40
Guyana	E/1995/127 E/1997/55
Honduras	E/1996/98
Hungary	E/1978/27 E/1985/63 E/1986/60
Iceland	E/1994/5 E/1998/17
India	E/1986/60
Iran (Islamic Republic of)	E/1978/27 E/1994/5
Iraq	E/1981/41 E/1985/63 E/1986/60 E/1997/55
Israel	E/1998/17
Ireland	E.CN.12/2002/SA/1
Italy	E/1982/41 E/C.12/2000/SA/1
Jamaica	E/1980/35 E/1989/6
Japan	E/1985/63 E/1987/59
Jordan	E/1987/59 E/C.12/2000/SA/1

Kenya	E/1994/63
Libyan Arab Jamahiriya	E/1996/98 E/1997/55
Luxembourg	E/1990/9
Madagascar	E/1981/41 E/1985/63 E/1986/60
Mauritius	E/1995/127
Mexico	E/1985/63 E/1990/9 E/1994/5 E/C.12/1999/SA/1
Mongolia	E/1978/27 E/1981/41 E/1985/63 E/1987/59
Morocco	E/1994/63
Netherlands	E/1989/6 E/1998/17
Netherlands (Antilles)	E/1987/59 E/1998/17
Netherlands (Aruba)	E/1998/17
New Zealand	E/1994/5
Nicaragua	E/1986/60 E/1994/5
Nigeria	E/1997/55 E/1998/17
Norway	E/1979/33 E/1981/41 E/1985/63 E/1988/6 E/1995/127
Panama	E/1981/41 E/1988/6 E/1989/6 E/1990/9 E/1991/4 E/1992/4
Paraguay	E/1995/127 E/1996/40

Peru	E/1985/63 E/1995/127
Philippines	E/1978/27 E/1985/63
Poland	E/1979/33 E/1981/41 E/1986/60 E/1987/59 E/1989/6 E/1998/17
Portugal	E/C.12/2000/SA/1
Portugal (Macau)	E/1996/98
Romania	E/1979/33 E/1981/41 E/1985/63 E/1988/6
Russian Federation	E/1997/55
Rwanda	E/1985/63 E/1986/60 E/1989/6
Saint Vincent and the Grenadines	E/1997/55
Senegal	E/1981/41 E/1994/5
Solomon Islands	E/1998/17
Spain	E/1980/35 E/1982/41 E/1985/63 E/1986/60 E/1996/40
Sri Lanka	E/1998/17
Suriname	E/1995/5
Sweden	E/1978/27 E/1981/41 E/1985/63 E/1987/59
Syrian Arab Republic	E/1980/35 E/1981/41 E/1990/9 E/1992/4

	E/1989/6
Trinidad and Tobago	E.CN.12/2002/SA/1
Tunisia	E/1978/27 E/1988/6 E/1989/6 E/1998/17
Ukraine	E/1995/127
Ukrainian SSR	E/1979/33 E/1982/41 E/1985/63 E/1986/60
United Kingdom of Great Britain and Northern Ireland	E/1978/27 E/1981/41 E/1985/63 E/1991/4 E/1995/5 E/1997/55 E.CN.12/2002/SA/1
United Kingdom (Hong Kong)	E/1996/98
United Kingdom (Non-metropolitan territories)	E/1979/33 E/1982/41 E/1985/63 E/1996/98 E.CN.12/2002/SA/1
United Republic of Tanzania	E/1981/41
Uruguay	E/1994/5 E/1994/63
USSR	E/1979/33 E/1981/41 E/1985/63 E/1987/59
Venezuela	E/1985/63 E/1986/60
Viet Nam	E/1994/5
Yemen	E/1990/9 E/1991/4
Yugoslavia	E/1983/40 E/1985/63

Zaire	E/1988/6
Zambia	E/1986/60
Zimbabwe	E/1997/55

Notes

[1] Decisions of the Governing Body at its 201st session (November 1976) and at its 236th session (May 1987).

[2] Information on the procedures and machinery for the implementation of ILO standards, including the operation of its supervisory bodies, can be found in United Nations Action in the Field of Human Rights (United Nations publication, Sales No. E.94.XIV.11), chap. II, sect. C.1. Further information can be found on the ILO's Internet website at www.ilo.org.

[3] There are, in addition, particularly for articles 7 and 9, a number of Conventions dealing with corresponding matters in particular occupational sectors (e.g. road transport, seafarers, fishermen, dock workers, plantation workers, nursing personnel) or with particular categories of workers (e.g. migrant workers, workers in non-metropolitan territories). These Conventions are not included in the present list but are taken into account in the indications concerning the situation in individual countries.