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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 28th 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 May 2001]

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CONTENTS

Introduction

1. 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 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.

2. 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]

3. 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

4. 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)
Prohibition of the 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

5. 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.

6. 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.

7. 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. Algeria

8. Information concerning Algeria has been supplied previously to the Committee in 1995.

The following relevant Conventions have been ratified and are in force for Algeria: 3, 6, 11, 13, 14, 17, 18, 19, 29, 32, 42, 44, 62, 73, 77, 78, 81, 87, 88, 96, 98, 99, 100, 101, 105, 111, 119, 120, 122, 127, 128, 142 and 182.

Article 6

9. The 2000 observation on the Abolition of Forced Labour Convention, 1957 (No. 105) relates to the provisions respecting the right of association which permit the imposition of sentences of imprisonment involving the obligation to work. The Committee once again referred to section 45 of Act No. 90-31 respecting associations, which provides that any individual who directs, administers or agitates in an association that has not been recognized, or which has been suspended or dissolved, or who facilitates meetings of the members of such an association, shall be liable to a term of imprisonment ranging from three months to two years, including the obligation to work, under the terms of sections 2 and 3 of the Intel-ministerial Order of 26 June 1983. The Committee had recalled on several occasions that the Convention prohibits the use of any form of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing certain political views or expressing opposition to the established political, social or economic system.

10. In its 1999 observation on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) the Committee recalled that in its previous observation on the Convention, it had noted that the Constitution had been amended in November 1996 and raised the question whether sections 29 (equality before the law, without any discrimination on grounds of birth, race, sex, opinion or any other personal or social condition or circumstance), 32 (guarantee of fundamental freedoms and human rights), 33 (guarantee of protection of fundamental human rights for individuals and associations, and of individual and collective freedoms) and 36 (inviolability of freedom of conscience and freedom of opinion), read together, guaranteed constitutional protection against religious discrimination. Noting that the Government's report did not touch on this question, the Committee invited the Government to confirm or repudiate this interpretation and repeated its request for copies of all court decisions concerning these articles. The Committee noted also the detailed information supplied by the Government, in response to its earlier comments, on the efforts that it is making to develop education for young girls, combat illiteracy among women and provide training so that they may obtain qualifications. It noted the Government's statement that despite incorporating equality between men and women into the legislative and regulatory texts governing the world of work, in practice, women are still confronted with discrimination in the field of employment resulting from stereotypes which exist regarding a woman's place in society. It therefore encourages the Government to continue its efforts to further its national policy of promotion of equality of opportunity and of treatment in respect of employment and occupation.

Article 7

Remuneration

11. The Committee noted, in its direct request of 1998 on the Minimum Wage-Fixing (Agriculture) Convention, 1951 (No. 99) the Government's statement that the concept of a minimum wage in agriculture no longer exists in the country since the establishment of a guaranteed national minimum wage to replace the guaranteed minimum agricultural wage (SMAG) and the guaranteed minimum interoccupational wage (SMIG). It requested the Government to supply general information on the manner in which the Convention is applied in the agricultural sector, including for instance: (i) the current guaranteed national minimum wage

(SNMG); (ii) the statistical data available on the number and categories of workers covered by minimum wage regulations; and (iii) the results of inspections carried out (including the violations reported, penalties imposed, etc.).

Equal remuneration

12. In the 2000 direct request on the Equal Remuneration Convention, 1951 (No. 100) the Committee reiterated several points previously raised. It asked the Government to provide in its next report information on the activities undertaken by the National Council for Women, established in 1997, with the mandate of promoting the advancement of the status of women in the country and to conduct and disseminate research in this area. The Committee noted the Government's statement in its report to the effect that there was no inequality of remuneration between men and women workers since remuneration is attached to jobs, regardless of sex. In its 1998 general observation concerning this Convention, the Committee had emphasized the constant efforts that must be made by Governments to apply the Convention fully; efforts must be made that go beyond the mere removal of male and female wage classifications. It had emphasized that an analysis of the position and pay of men and women in all job categories within and between the various sectors is required to address fully the continuing remuneration gap between men and women which is based on sex. The Committee noted that, according to the Government's 1998 report, a national survey on wages was due to start in September 1998 which would incorporate the concerns previously raised by the Committee concerning the distribution between men and women at the various wage levels, and particularly in the occupations and sectors employing a large number of women, in both the private and public sectors. It asked the Government to indicate whether this survey had been completed. The Committee drew the Government's attention to the fact that, when job evaluation plans use market salary rates to establish the relative weight of criteria, it is possible that these weightings tend to reflect traditional discrimination in the labour market stemming from sexist prejudices or stereotypical perceptions, which result in the under-evaluation of employment carried out principally by women. This is why the Committee recommended the establishment of evaluation systems for occupations in which women predominate and those in which men predominate in order to identify and remedy cases of wage discrimination. In addition, even when the State does not intervene directly in determining wages, it is nevertheless under an obligation, pursuant to article 2 of the Convention, to ensure the application of the principle of equal remuneration, particularly when it has the legal power to do so under constitutional or legislative provisions.

Safe and healthy working conditions

13. In the 2000 observation on the White Lead (Painting) Convention, 1921 (No. 13) the Committee therefore repeated its previous observation in which it had noted that Executive Decree No. 96-209 of 5 June 1996 fixes the composition and functioning of the National Occupational Safety and Health Council. The responsibilities of this Council include the production of an annual report on matters of occupational health and safety and occupational medicine. The Committee had trusted that the Government will take advantage of the creation of this Council to promote the adoption of the regulations giving effect to the provisions of the Convention. In this regard, the Committee had recalled that, in its comments since 1965, it had drawn the Government's attention to the fact that there were no specific provisions in force

giving effect to the Convention. As regards the establishment of statistics on the rate of morbidity and mortality due to lead poisoning, the Committee notes the Government's information to the effect that the National Social Insurance Scheme has been apprised of the question of statistics laid down in article 7 with a view to the implementation of this article.

14. In its 1998 observation on the Protection against Accidents (Dockers) Convention, 1932 (No. 32) the Committee noted the information that the specific text covering ports and docks, based on the general framework for the prevention of occupational risks established by Act No. 88-07 of 26 January 1988, had not yet been adopted. The Government indicated that this specific text would be adopted only after the Order on Commercial Ports in general, which is currently under examination, is proclaimed. The Committee trusted the Government would take all the necessary measures to adopt, without undue delay, the necessary provisions on the protection of dockworkers against accidents, ensuring the application of the provisions of the Convention.

15. The observation of 1998 on the Safety Provisions (Building) Convention, 1937 (No. 62) noted information on the adoption of and the texts of Order No. 96-11 of 10 June 1996 amending and supplementing Law No. 90-03 of 6 February 1990 on Labour Inspection, as well as Executive Decree No. 96-209 of 5 June 1996 providing for the composition and functioning of the national occupational safety and health council. With respect to the comments it had been making for a number of years, the Committee noted the information that due to priority being given to the enactment of basic laws as a result of the reforms introduced in the country, the draft regulations intended to give effect to the provisions of the Convention had been delayed. The Committee recalled the long period that had elapsed for the adoption of special regulations concerning safety in the building industry, as required by the Convention. Given the acknowledged high-risk nature of work in the building industry, the Committee trusted the Government would take the necessary measures to ensure that the long-awaited regulations would come into force in the very near future.

16. In an observation of 2000 on the Labour Inspection Convention, 1947 (No. 81), the Committee noted with interest the information supplied by the Government on the legislative measures adopted in 1998 and 1999. In this connection, the Committee noted with interest the considerable reduction in occupational accidents (20,970, of which 188 were fatal, in 1998, against 61,463 of which 530 were fatal, in 1995) as well as the proportion of official notices served by the labour inspectors in the private sector (54.8 per cent in 1998 against 78.94 per cent in 1996) as compared with the statistics supplied by the Government in its earlier reports. This information suggests that the labour inspection services are becoming more efficient and is particularly encouraging in the context of an economy in transition towards liberalism and the increase in the number of private sector undertakings.

17. In a direct request of 2000 on Convention No. 81 the Committee noted a reduction in the number of women on the labour inspection staff over the last three years, in particular at the higher levels of the labour inspection. There are effectively no longer any posts as regional or divisional inspectors filled by women, and of the 10 women principal inspectors working in 1996, only nine remain. Noting further that in 1995, the budget covered 1,021 labour inspection posts, and that in 1998, only 971 posts were filled, a drop of 50 posts, the Committee invited the Government to indicate whether this difference is due to budgetary restrictions or, if

not, to supply information on the reasons for the difficulties in filling the required posts and the manner in which effect is given to *article 8*, which provides, where necessary, that special duties may be assigned to men and women inspectors.

18. In an observation of 2000 on the Maximum Weight Convention, 1967 (No. 127), the Committee noted with regret that the Government's report had not been received. Further to its previous comments noting the absence of legislation limiting the weight of loads to be manually transported by adult males, the Committee had noted with satisfaction that article 26 of Executive Decree No. 91-05 of 19 January 1991, concerning the general protective provisions applying in the field of safety and health in the work environment, sets the maximum weight of loads to be manually transported by adult males at 50 kg, and the maximum weight of loads to be transported manually by women and young workers at 25 kg. In this connection, the Committee, however, had referred the Government to the ILO publication "Maximum weights in load lifting and carrying" (Occupational Safety and Health Series, No. 59, Geneva, 1988), in which it is indicated that 15 kg is the limit, recommended from an ergonomic point of view, of the admissible load for occasional lifting and carrying for a woman aged between 19 and 45 years. The Committee hopes that the Government will keep the matter under review so as to further limit the assignment of women workers to the manual transport of light loads, not exceeding, as much as possible, 15 kg, and that it will indicate the measures taken or envisaged to this end.

Article 8

19. In its 2000 observation on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) the Committee noted that the Government's report does not contain replies to its previous comments. The Committee had noted that sections 1, 3, 4 and 5 of Legislative Decree No. 90-02 of 6 February 1990 on compulsory arbitration contain provisions which could jeopardize the right of workers' organizations to organize their activities and formulate their programme of action to defend the economic, social and occupational interests of their members including through recourse to strike, without interference from the public authorities. The Committee recalled also, that section 1, read in conjunction with sections 3, 4 and 5 of Decree No. 92-03, defines as subversive acts or acts of terrorism, offences directed, in particular, against the stability and normal functioning of institutions, through any action taken with the intention: (1) of obstructing the operation of establishments providing public service; or (2) of impeding traffic or freedom of movement in public places or highways, under penalty of severe sanctions including up to 20 years' imprisonment. The Committee therefore again requested the Government to take steps through legislation or regulation to ensure that none of these provisions may be applied against workers peacefully exercising their right to strike. In respect of section 43 of Decree No. 90-02 of 6 February 1990, the Committee had noted that this provision allowed a strike to be prohibited, not only in essential services, the interruption of which would endanger the life, personal safety or health of the population, which the Committee has always considered admissible, but also when the effect of the strike is likely to engender an acute economic crisis. Moreover, article 48 of the Decree empowers the Minister or the competent authority, where the strike persists and after the failure of mediation, to refer, after consultation with the employer and the representatives of the workers, a collective dispute to the arbitration commission. The Committee wished to recall that compulsory arbitration should only be used at the request of both parties and/or that arbitration to end a strike should only be imposed when strikes occur in essential services in the strict sense of the term, or where the

extent and duration of the strike could provoke an acute national crisis. It therefore again urged the Government to amend its legislation to bring it fully into conformity with the principles of freedom of association.

Article 9

20. In its 2000 observation on the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) the Committee noted that the Government had indicated that a new schedule of occupational diseases had been determined by the Ministerial Order of 5 May 1996. The Government had stated that the list had been broadened, with the number of schedules of occupational diseases increasing from 62 to 83, and that the inter-ministerial commission entrusted with proposing the text of the list had endeavoured to take into account the previous comments made by the Committee of Experts. The Committee noted this information with interest. In view of the fact that the Government had not transmitted a copy of the above Order, the Committee requested the Government to provide it as soon as possible. The Committee hoped that the new schedule of occupational diseases takes into account its previous comments concerning the schedules of occupational diseases annexed to the Order of 22 March 1968, as amended, and once again listed the points raised previously.

21. In the direct request of 1999 on the Unemployment Provisions Convention, 1934 (No. 44), the Committee noted the adoption of Decree No. 94-11 of 26 May 1994 which establishes unemployment insurance for employees liable to lose their employment involuntarily and for economic reasons. The Committee noted that the scope of the unemployment insurance established by Decree No. 94-11 is restricted to involuntary unemployment arising either from a reduction of the workforce or on the closing down of activity by the employer. It recalls that any State which ratifies the Convention undertakes, by virtue of its article 1, paragraph 1, to establish an insurance scheme for involuntary unemployment. Given these circumstances, the Committee hoped that the Government will indicate in its next report the measures taken or envisaged to broaden the application of the unemployment insurance to cover all involuntarily unemployed persons as provided for by the Convention. The Committee noted also that Decree No. 94-11 of 26 May 1994 only applies in cases of total unemployment. It requested the Government to indicate in its next report the measures taken or envisaged to give effect to article 3 of the Convention, under which, in cases of partial unemployment, benefit or allowance shall be payable to persons whose employment has been reduced. The Committee noted further that under sections 8-10 of Decree No. 94-11, entitlement to unemployment insurance benefits is subject to fulfilment of certain conditions on the part of the employer. The latter must be up to date in the payment of social security contributions and must pay each employee an "entry payment", opening the entitlement to the benefit which varies according to length of service, prior to receipt of benefits. The Committee pointed out that subjecting the entitlement to the benefit to fulfilment by the employer to the condition prescribed in the above mentioned provisions of Decree No. 94-11 would not be in line with the Convention. It therefore asked the Government to take the necessary measures to delete these provisions from the national legislation.

Article 10

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

22. In its 2000 direct request on the Minimum Age Convention, 1973 (No. 138) the Committee noted the information and legislative texts provided by the Government in its report. It noted with interest the adoption of Decree No. 96-98 of 6 March 1996 determining the list and content of the special books and registers which must be kept by employers, sections 2 and 5 of which make it compulsory for employers to record on staff registers the name and date of birth of the worker. The Committee noted the information supplied by the Government in its report submitted to the United Nations Committee on the Rights of the Child, according to which section 182 of Ordinance No. 75-31 of 29 April 1975 respecting the general conditions of work in the private sector prohibits any employment of young persons under 16 years of age, except in cases in which exceptional exemptions are authorized by the Minister of Labour and Social Affairs for certain temporary jobs of a fixed duration (paragraph 7 (e) of document CRC/C/28/Add.4). The Committee requested the Government to provide information on the application in practice of the exemptions referred to in this provision.

23. The Committee noted also the Government's statement in its report to the effect that the minimum age for admission to non-salaried work, including employment or work carried on by a child on her or his own account, is determined by regulations other than Act No. 90-11 of 21 April 1990. It requested the Government to indicate the regulations and provisions which establish the minimum age for admission to non-salaried work. The Committee also noted the Government's statement that no particular provision had been adopted to determine the minimum age of artists and actors under section 4 of Act No. 90-11. It hopes that these specific provisions will be adopted as soon as possible and will give effect to article 8 of the Convention, which permits the participation of children under 16 years of age in activities such as artistic performances under certain conditions (limitation of the number of hours of the performance and the prescription of the conditions of employment), by means of permits granted in individual cases, after consultation with the organizations of employers and workers concerned.

24. The Committee of Experts furthermore addressed direct requests to the Government in 2000 on Conventions Nos. 24, 77, 78, 105, 111, 122 and 142.

B. Croatia

25. No information concerning Croatia has been supplied to the Committee previously.

26. The following relevant Conventions have been ratified and are in force for Croatia: 3, 11, 12, 13, 14, 16, 17, 18, 19, 24, 25, 29, 32, 48, 73, 81, 87, 90, 98, 100, 102, 103, 105, 106, 111, 113, 119, 120, 121, 122, 129, 132, 135, 136, 138, 148, 155, 156, 159, 161 and 162.

Article 6

27. In the 2000 direct request on the Forced Labour Convention, 1930 (No. 29), the Committee noted that the Government had stated in its report received in October 2000 that the new Act on Serving of Prison Sentences, which entered into force on 1 January 2001, does not provide for an obligation of convicted prisoners to work; however, they are allowed to work on the basis of an employment contract. The Committee requested the Government to supply, with its next report, a copy of the new Act, so as to enable the Committee to ascertain its conformity with the Convention. The Committee noted also the Government's statement in the report that section 128 of the new Penal Code of 1997, which has replaced the former section 51 of the old Penal Law concerning the illegal compulsion to act against a person's will, is applicable to punishment of the illegal exaction of forced or compulsory labour. The Committee requested the Government to provide, in its future reports, information on any application of the new section 128 in practice.

28. In its 1999 observation on Convention No. 111 the Committee reiterated a number of points set forth in its earlier observation on the Convention. According to the Union of Autonomous Trade Unions of Croatia (UATUC), discrimination in employment on the basis of sex, age, and ethnic origin was a frequent occurrence, especially with respect to vacancy announcements. The UATUC inter alia had stated that the workers most frequently dismissed were elderly persons, women, disabled workers, and workers of non-Croatian ethnic origin, the latter being particularly frequent in the national administration. In its response, the Government had stated that it is not in a position to reply to these claims in the absence of more precise information, but could confirm that there are no such cases in the State administration. The Committee hoped to be provided with information, and copies, of any administrative or judicial cases in which discriminatory hiring or dismissal practices have been alleged. It also hoped that the Government would take all necessary steps to ensure the full application of section 2 of the Labour Act of 1995 prohibiting discrimination in employment on various grounds including those covered by the Convention. The Committee had further noted the Government's indication that it was aware that there is hidden discrimination against women in the field of employment, and that, therefore, on 18 December 1997 the Government had adopted the National Policy for the Promotion of Equality which provides for a series of measures to promote equality for women in different fields. The Committee had noted that the National Policy is based on the principle that, although women have the same rights under the legislation, there was room for improvement with regard to the application of existing legislation in order to ensure full equality in practice. It noted in this respect that a gender analysis of legislation would be undertaken to determine its impact on women, including the extent to which it promotes equality and provides the necessary protection for working women. The Committee had requested the Government to provide information on the findings of this examination, as well as any legislative changes considered or made, based on these findings.

29. In a 2000 direct request on the Workers with Family Responsibilities Convention, 1981 (No. 156), the Committee noted the information contained in the Government's first report. It noted the prohibition contained in section 2 of the Labour Law on giving less favourable treatment to a jobseeker or worker on the basis of a number of criteria, including family responsibilities. In addition, the Government sets forth in its National Policy for the Promotion of Equality, adopted in 1996, and its Programme of Action for application of the Beijing

Platform, that specific measures must be adopted for the promotion of equality in family life with the object of reconciling the family and occupational responsibilities of both parents. The Committee noted with interest that the Pre-school Education Act and the Primary Education Act provide for childcare, particularly for children of working parents and that legislation provides that parental leave may be exercised by either parent, except for the obligatory period of maternal leave. The Committee requested the Government to supply additional information on these points.

Safe and healthy working conditions

30. In a direct request of 1998 on the White Lead (Painting) Convention, 1921 (No. 13) the Committee noted with interest the Government's indication according to which the Trade Toxic Agents Act contains a list of toxic agents permitting their trade on the domestic market, and since white lead and sulphate of lead are not on the list, their use is not allowed.

31. Regarding the Occupational Safety and Health Convention, 1981 (No. 155), the Committee, with reference to its previous comments, noted in its 1999 observation on the Convention with interest that the Safety and Health Protection at the Workplace Act of 1996 ensures legislative conformity with the provisions of the Convention. The Committee addressed a request directly to the Government on the practical application of this Act as well as of the Labour Inspection Act.

Article 8

32. In its 2000 observation on Convention No. 87, referring to its previous comments in which it had requested the Government to amend the Croatian Railways Act of 1994 to ensure that minimum services to be maintained during a strike are limited to operations that are strictly necessary to avoid endangering the life or normal living conditions of the whole or part of the population, the Committee noted with satisfaction that the Act amending the Croatian Railways Act (*Official Gazette*, No. 162/99) sets out, in its article 16 (a), the manner for determining minimum rail services during a strike. Article 16 (a) provides that, inter alia, with regard to passenger traffic, the management shall, in consultation with trade unions, specify in annual timetables which trains for transportation of passengers and goods must operate during a strike. If the trade union does not accept the management's decision, it may file a complaint to a special arbitration board.

33. The Committee had also noted that article 165 of the new Labour Act provides that a minimum of 10 individuals of full age is necessary to establish an employers' association. In this regard, the Committee noted that the Government indicates that it had initiated a procedure aimed at amending article 165 (2) of the Act which would now provide that an employers' association can be established by at least three legal or physical persons.

34. The Committee recalled in the same observation that it had noted the recommendations of the Committee on Freedom of Association in Case No. 1938 (see 309th Report, paragraph 185, and 310th Report, paragraph 17) in which it requested the Government to determine the criteria for the division of immovable assets formerly owned by the trade unions in consultation with the trade unions concerned should they be unable to reach an agreement among

themselves, and fix a clear and reasonable time frame for the completion of the division of the property once the period of negotiation has passed. In its latest report, the Government indicated that it has not proposed to the Parliament the criteria for division for trade union property since the trade unions have informed it that an agreement was reached among trade union confederations for the solution of the problem without the Government's interference. The Committee took note of this information with interest.

35. Finally, the Committee recalled its previous request to the Government to comment on observations made by the Union of Autonomous Trade Unions of Croatia and the Croatian Associations of Unions concerning two decisions of the Supreme Court of the Republic of Croatia of 15 May 1996 and 11 July 1996. In these decisions, the Court, referring to article 209 of the Labour Act, declared that strikes for the purpose of protesting against unpaid salaries were unlawful. The Government indicates that it has assessed that the provisions of article 210 are not sufficiently clear and has therefore proposed that this article be amended by adding an explicit provision stating that "non-payment of wage or sickness benefit within 30 days of it being due is a legitimate reason for a strike". The Committee took note with interest of this information and requested the Government to send it a copy of the proposed amendment once it has been adopted.

36. In its 1999 observation on Convention No. 98 the Committee noted that the Independent Trade Union of the Croatian Electrical Power Industry and other workers' organizations had presented comments on the application of the Convention and, in particular, the restrictions placed on negotiating pay increases in state enterprises and undertakings through collective bargaining, as a consequence of the decision handed down on 30 December 1997 respecting the application of the remuneration policy. The Committee recalled that legislative provisions are compatible with the Convention where they allow Parliament or the competent budgetary authority to establish an overall open "budgetary package" for wage negotiations provided they leave a *significant* role to collective bargaining. It was essential, however, that workers and their organizations be able to participate fully and meaningfully in designing this overall bargaining framework (see the 1994 General Survey on freedom of association and collective bargaining, paragraph 263). The Committee lacked sufficient information to establish whether, in the present case, workers' organizations were consulted and requested the Government to ensure that prior to fixing wage rates in guidelines trade union organizations are consulted and that these levels, in fact, leave a *significant* role to collective bargaining by the parties concerned.

37. In an observation of 1998 on the Workers' Representatives Convention, 1971 (No. 135), the Committee noted comments made by the Union of Autonomous Trade Unions of Croatia (UATUC) on the application of the Convention, and the Government's reply to these comments. The Committee noted the UATUC's statement that section 148 of the Industrial Relations Act of 1995 provides that where a workers' council has not been established (a body established by a trade union or at least 10 per cent of the workers in an enterprise with the objective of representing the workers before the employer) only part of its functions and rights may be exercised by a trade union delegate. According to the UATUC, employers therefore prefer workers' councils not to be set up. The Government stated that the rights which are not transmitted to trade union delegates (especially the right of members of workers' councils to attend training courses paid by the employer), are rights which are already enjoyed by trade union delegates in their capacity as such and that they are covered by section 181 of the

Industrial Relations Act, or they are rights which by virtue of their content are more limited than those of a trade union, or they are rights which it would not be meaningful to delegate. The Government also stated that, leaving aside the fact that employers prefer not to have workers' councils, the Act provides that they can be established if trade unions or at least 10 per cent of the workers so wish, and that it does not therefore see how they can be impeded. The Committee recalled that no explicit indication is given in Convention of the number or type of facilities which must be provided when workers' representation is provided through other bodies. The Committee noted that, by virtue of the Industrial Relations Act of 1995, workers' representatives (whether they are members of the workers' council or trade union delegates) benefit from protection against acts which might prejudice them and are provided with a considerable number of facilities to enable them to carry out their functions, in accordance with the provisions of the Convention.

Article 9

38. In the 2000 direct request on the Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), the Committee of Experts noted from the information provided by the Government in its report on the application of Convention No. 121 that Croatia does not have a separate scheme of insurance for employment injury, and that such compensation is provided in the context of the pension and disability insurance and the health insurance schemes. The Committee noted in this respect that, under the terms of section 10 of the Pension Insurance Act (102/98), all employees and workers assimilated under specific provisions are subject to compulsory insurance. The Committee nevertheless understood from the information provided on this subject by the Government that agricultural workers might be excluded from the scope of this Act (section 12). The Committee recalled that, in accordance with article 1 of the Convention, all agricultural wage earners should be covered by laws and regulations which provide for the compensation of victims of employment accidents. In these conditions, it requested the Government to provide additional information on the application of section 12 of the Pension Insurance Act, with an indication of whether *all agricultural wage earners* are subject to compulsory coverage by the pension and invalidity insurance scheme in the event of employment injury.

39. The 2000 direct request under the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) the Committee noted that the conditions for the payment of benefits outside Croatian territory, as provided for in the national legislation differ according to the nationality of the beneficiary. In fact, these benefits are subjected to social security agreements having been concluded or to conditions of reciprocity in respect of foreign workers only, whereas under *article 1, paragraph 2*, of the Convention, each State which ratifies this Convention undertakes to grant to the nationals of any other State which shall have ratified the Convention, who suffer personal injury due to industrial accidents happening in its territory, the same treatment in respect of workmen's compensation as it grants to its own nationals without any condition as to residence. The Committee hoped that the Government will indicate in its next report the measures taken or envisaged with a view to giving full effect to this provision of the Convention by granting to nationals of any other country which has ratified the Convention, who have suffered personal injury due to industrial accidents, the same treatment in respect of pensions and disability benefits as it grants its own nationals, in case of residence abroad.

Article 10

Maternity protection

40. The 1998 direct request regarding the Maternity Protection Convention (revised), 1952, (No. 103) the Committee noted with interest the information contained in the Government's first report. The Committee also noted the comments, dated 9 December 1997, by the Union of Autonomous Trade Unions of Croatia in respect of the application of the Convention and the Government's reply to these comments. The Committee noted that the period for compulsory maternity leave, as laid down in section 58 of the Labour Code, is greater than that provided for under *article 3* of the Convention and the benefits paid during maternity leave, as provided for under the law on health insurance, are also greater than the rates laid down in *article 4* of the Convention. The Committee asked for confirmation of the application of the law and regulation on health insurance in cases of complication during maternity.

41. The Committee of Experts furthermore addressed direct requests to the Government in 1998 on Conventions Nos. 11, 27, 136, in 1999 on Conventions Nos. 111, 155 and in 2000 on Conventions Nos. 16, 27, 73, 105, 113 and 136.

C. Czech Republic

42. No information concerning the Czech Republic has been supplied to the Committee previously.

43. The following relevant Conventions have been ratified and are in force for the Czech Republic: 1, 5, 10, 11, 12, 13, 14, 17, 18, 19, 26, 27, 29, 37, 38, 39, 42, 77, 78, 87, 88, 90, 98, 99, 100, 102, 105, 111, 115, 120, 122, 123, 124, 130, 132, 135, 136, 140, 142, 148, 155, 159, 161, 167 and 171.

Article 6

44. In its 2000 direct request on Convention No. 29 the Committee, once again, has noted that the contract on the basis of which the prisoner's work for private employers is to be performed has to be concluded between the prison administration and the third party concerned and that employers are bound by the same obligations in respect of the prisoner's health and safety as those which regulate normal employment relationships. The Committee recalled that prisoners must not be hired to or placed at the disposal of private parties. It further considered that voluntary consent by the prisoner to working for a private employer is a necessary condition for such employment to be compatible with the explicit provision of *article 2, paragraph 2 (c)*. Also, the work must be performed in conditions which guarantee payment of normal wages and social security, etc. The Committee asked the Government to indicate how and when the person concerned is giving that free consent, and to give details on the guarantees and safeguards established in law and practice.

45. In its observation on Convention No. 111 the Committee took note of the detailed information contained in the Government's report concerning the application of Act No. 451 of 1991 (Screening Act) laying down certain political prerequisites for holding a range of jobs

and occupations mainly in public institutions but also in the private sector. This Act had been the subject of representations under article 24 of the ILO Constitution on two separate occasions (November 1991 and June 1994). In the decisions of these Governing Body committees, the Government had been invited to repeal or modify the provisions in the Screening Act that were incompatible with the Convention. In this regard, the Committee recalled that the level of a certain post within a public or private organization might not be determinative as to whether political criteria can be applied in filling it and that what was required was a careful and objective consideration of the inherent requirements of a job on a case-by-case basis. It also recalled that the exclusions imposed on persons for past activities should be proportional to the inherent requirements of a particular job. The Committee noted that the Government had reiterated its intention not to extend the validity of the Act beyond 31 December 2000. It further noted that new legislation concerning the status of employees in the State administration is under preparation. The Committee requested the Government to confirm that the Screening Act had not been extended and it hoped that the new legislation envisaged would not contain provisions incompatible with the Convention.

46. The Committee noted with interest that Act No. 167/1999 amended Act No. 1/1991 on employment, and that a new section 1 had been introduced, which stipulates as prohibited grounds of discrimination in employment, race, colour, sex, sexual orientation, language, creed and religion, political and other opinion, membership and/or activities in political parties or political movements, national extraction, health condition, age, marital or family status or family responsibilities, except in cases where the law so provides or where there is a valid ground, vital for the performance of the job, inherent in prerequisites, requirements and nature of the job to be performed by the citizen concerned. The Government indicated that by moving the prohibition of discrimination from the preamble to section 1, it would be easier to enforce these provisions and to impose penalties in cases of its violation by employers. The Committee trusted that the Government would indicate the measures taken to ensure its application in practice, including statistical data of cases involving discrimination in employment and occupation.

47. The Committee also noted that new institutions had been created including a Council for Human Rights, with a section for combating racism, and an Inter-ministerial Commission for Romany Affairs. The Committee took note of the information supplied by the Government that a significant change in the State employment policy has taken place with the adoption of the National Employment Plan in May 1999, which will improve chances of job applicants belonging to vulnerable groups, including Roma job applicants. The Government indicated that it has taken a series of measures on the basis of this Plan, including employment promotion among the long-term unemployed, with emphasis on members of the Roma community and strengthening of legal and institutional tools and machinery designed to combat discriminatory practices in the labour market. The Committee also noted that a special committee had been established in 1998 within the Ministry of Labour and Social Affairs to deal specifically with the problems of the Roma community and to improve their situation in the labour market.

48. The Committee stressed that the elimination of discrimination in employment and occupation, on all grounds, including national extraction, is critical to sustainable development, all the more so because of the re-emergence of signs of intolerance and racism in some countries. The Committee urged the Government to take measures to improve significantly the Roma's access to training, education on the same basis as others, as well as to employment and

occupation, and to take steps to raise public awareness of the issue of racism in order to promote tolerance, respect and understanding between the Roma community and others in society. It hoped the Government would be able to report progress in positively addressing the serious problems facing Romas in the labour market and in society in general.

49. With reference to its previous comments concerning Act No. 216 of 10 July 1993, which amended the 1990 Higher Education Act, and required the holding of competitions for all jobs of higher education teachers, scientific workers and managers of educational and scientific higher education establishments, the Committee notes from the Government's report that this Act has been abolished and replaced by a new Act on higher education. The Committee however notes that the new Act, under section 77, provides that positions of teachers in public institutions of higher education are to be filled by competition. The Committee asks the Government to indicate whether the new competition procedure has eliminated political opinion as an element to consider in the selection of candidates.

50. Further to previous comments, the Committee requested the Government to provide information on the practical impact of the measures taken to promote equality between women and men in employment and occupation and to raise awareness of girls and young women about employment and training opportunities available to them beyond those considered "typically female" occupations.

51. The 2000 direct request on the Employment Policy Convention, 1964 (No. 122) - in absence of a report by the Government - repeated previous requests. The Government had stated that, following a period of relative stability, the rate of unemployment increased from 3.5 per cent to 4.3 per cent in 1997 owing to a marked slow-down in economic growth at the end of the period. According to the latest OECD forecasts, the unemployment rate would rise to 5.8 per cent in 1998. The Committee nevertheless had noted that, despite this recent deterioration, the employment situation continues to compare favourably with that of other European countries which are in a period of transition to a market economy and with the majority of Western European countries. The Government had emphasized that unemployment particularly affects certain groups of the economically active population, such as unskilled workers, young people with no work experience, the Roma ethnic minority and persons with disabilities. Moreover, levels of unemployment are highest in the regions of North Bohemia and North Moravia, which are undergoing industrial restructuring, and in mainly agricultural areas. The Government had stated that, in order to stem this rise in structural unemployment, it has adjusted its employment policy to strengthen measures targeting the most vulnerable regions and groups of workers. Emphasis is placed, in particular, on the development of infrastructure in the transport and service industries and the promotion of small- and medium-sized enterprises as sources of new employment opportunities, as well as on retraining, not only for jobseekers, but also as a preventative measure for workers whose jobs are at risk as a consequence of structural changes. The Committee had noted in this respect that refocusing of active labour market policy measures appears to have resulted in a decrease in the number of beneficiaries during the period in question. The Committee invited the Government to provide in its next report any evaluation of the effectiveness of these measures in terms of placing those concerned in employment.

52. The direct request of 2000 on the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1985 (161), noted with interest the substantial effort the Government had made to identify difficulties in promoting the employment of persons with disabilities, and that it has adopted a National Plan with specific measures to be taken.

Article 7

Safe and healthy working conditions

53 In its 2000 observation on the Occupational Health and Safety Convention, 1981 (No. 155) the Committee noted with interest the Government's reply to its previous comments referring to earlier observations made by the Czech-Moravian Chamber of Trade Unions (CMKOS) essentially relating to the required measures for the formulation, implementation and periodic review of a coherent national policy on occupational safety, occupational health and the working environment. The Government indicated in its reply that the amendment to the Labour Code would probably enter into force on 1 January 2001, and that a copy would be sent to the Office when it is approved. It indicated that the amendments change in important ways the parts concerning safety and health at work.

54. The Committee noted with interest the information that the Czech Office for Safety at Work, an institution founded by the Ministry of Labour and Social Affairs, is currently working on the draft law on labour inspection. It also noted with interest the information that one of the priorities covered by the Ministry of Labour and Social Affairs strategy plan up to 2002 is safety and health at work. The Government's report indicated that in order to ensure the protection and improvement of the working environment it is vital to develop and implement a national plan for the protection of the working environment, which, for its implementation, will require the establishment of: (a) realistic and achievable objectives and targets; (b) an approach that is effective and can be monitored with regard to progress in meeting the objectives, including both timing and economic costs/benefits; (c) institutional implementation; (d) resources (human, technical and financial); and (e) enforcement mechanisms.

Article 8

55. The 2000 observation on the Right of Association (Agriculture) Convention, 1921 (No. 11) the Committee noted with interest 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's report on the application of the Convention, the rights of agricultural workers are regulated by the same laws and regulations as other persons' rights. The Committee asked the Government to indicate in its next report if foreign agricultural workers legally residing in the country are granted trade union rights.

56. In its 2000 direct request on the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) the Committee once again asked the Government to take the necessary measures in the near future to give effect to the Convention on the points it had previously raised. The Committee recalled the importance it attaches to the provision that workers without distinction whatsoever (whether national or foreigners residing legally in the

country) have the right to establish and join workers' organizations and requested the Government to indicate the measures taken or envisaged to ensure that this right is guaranteed by law. The Committee had noted with interest the indication in the Government's report that, the Constitutional Charter of basic rights and freedoms which ensures this right to all persons and has supremacy over the Association of Citizens Act (83/1990) which refers only to citizens. The Ministry of the Interior had nevertheless prepared a new draft Act on Associations in May 1998 which would expressly cover all persons. It further had noted the Government's statement that this Act should come into force in 1999 and that it would be communicated to the Office as soon as it is approved. The Committee further requested the Government to indicate in its next report the progress made in limiting the quorum and majority required for a strike ballot to a reasonable level. The Government was further requested to keep the Committee informed of the progress made in respect of the new proposed strike legislation.

Article 9

57. In its 1998 direct request on the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 18) the Committee noted the information provided by the Government in its first report. It noted with interest that under section 66 of Act No. 155/1995 respecting pensions insurance, persons who do not reside in the Czech Republic may now obtain pension payments abroad.

58. In a 2000 direct request on the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 43) the Committee noted the adoption of Decree No. 290/1995 establishing the schedule of occupational diseases. The Committee noted that the legislation gives a broad definition of the working environment at the origin of the occupational disease and, unlike the Convention, does not refer to trades, industries and processes. The Committee recalls in this connection that, by listing for each disease in the list the corresponding trades, industries and processes, the Convention seeks to release workers from the burden of proving that they have actually been exposed to the risk of the disease in question, which in some cases may be particularly difficult. In these circumstances, it asks the Government to provide detailed information on the application in practice of Decree No. 290/1995 and to indicate how this legislation enables effect to be given to the objectives pursued by the Convention, as recalled above.

59. The Committee of Experts furthermore addressed direct requests to the Government in 1998 on Conventions Nos. 5, 120, in 1999 on Convention Nos. 1, 26, 99, 105 and in 2000 on Conventions Nos. 27, 130, 132 and 155.

D. France

60. Information concerning France has been previously supplied to the Committee in 1986 and 1989.

61. The following relevant Conventions have been ratified and are in force for France: 2, 3, 6, 11, 12, 13, 14, 16, 17, 18, 19, 24, 26, 27, 29, 35, 36, 37, 38, 42, 44, 52, 62, 73, 77, 78, 81, 87, 88, 90, 96, 98, 99, 100, 101, 102, 105, 106, 111, 113, 115, 118, 120, 122, 124, 127, 129, 131, 135, 136, 138, 140, 141, 142, 148, 152, 156, 158 and 159.

Article 6

62. The report by the Government on Convention No. 29 was not received. The Committee of Experts, in its 2000 observation, therefore repeated points raised previously. In its earlier comments, the Committee had raised a certain number of points relative to prison labour and, in particular, the question of consent freely given by the prisoner, the employment contract, and the wages and conditions of work of prisoners in the event that they are made available to private enterprises. The Committee had requested the Government to adopt the necessary measures both in law and in practice to ensure that the employment conditions of these prisoners allow their situation to be assimilated to that of free workers. The French Democratic Confederation of Labour (CFDT) in its communication had reiterated its request for a contract to be concluded between the prison administration and prisoners, defining the obligations of the parties. The CFDT had also considered that the supervision of prison labour should be entrusted to a labour inspection service, since legislation relating to health and safety at work should be applied in prisons under the same conditions as elsewhere.

63. The Committee had taken due note of the Government's statement that a Bill establishing a labour inspection service had been drawn up, and a circular defining the methods of work of the prison labour inspection services with regard to health and safety at work and vocational training had also been drafted. The Committee had also noted that, following an agreement concluded between the prison authorities and the local medical service, medical examinations would shortly be introduced, during a trial period, for prisoners who are working. The Government had indicated that a legal and social text with respect to prison labour is being drawn up and that the themes covered (remuneration, social protection, health and safety at work) will provide responses to the questions that are being raised in this regard. Finally, the Committee had noted with interest the Government's statement that the average daily wage paid to prisoners had been increased although disparities remain among different types of prison labour. The Committee requested the Government to continue to take measures to ensure that wages and employment conditions of prisoners who are made available to private enterprises conform to relevant standards and to provide information in respect of the measures adopted or envisaged in this regard.

64. The Committee recalled that Convention No. 29 clearly excludes the use of prison labour for the benefit of private enterprises; however, where the necessary safeguards exist to ensure that prisoners accept work voluntarily and prison labour is carried out under the supervision and control of the public authorities, the Committee referred to paragraph 97 of the General Survey of 1979 on the abolition of forced labour and paragraphs 116 to 125 of the General Report of 1998: the Committee considered that an employment contract could, particularly in prisons, resolve this problem by ensuring that the necessary safeguards are provided. However, the Committee hoped that the Government would provide in its next report all the necessary information to enable a general assessment of the situation in respect of these provisions of the Convention. The Committee hoped that the Government would make every effort to take the necessary action in the very near future.

65. In its 2000 direct request on Convention No. 105 the Committee noted with regret that the Government's report had not been received. It hoped that a report will be supplied for examination by the Committee at its next session and that it would contain full information on

the following matters raised in its previous direct request: in its previous comments, the Committee had requested the Government, on the occasion of the reform of the Disciplinary and Penal Code of the Merchant Navy, to amend the provisions of sections 39 (4) and 59 (1) which imposes terms of imprisonment on seafarers for breaches of labour discipline which does not endanger the safety of the vessel or the life and health of persons on board. In the report received in December 1994, the Government had reiterated its previous statements to the effect that the provisions in question had fallen into abeyance and that no seafarer had been convicted under these provisions. The amendment would be made within the framework of a global reform of the Disciplinary and Penal Code of the Merchant Navy, which was being examined by the various ministerial departments concerned. The Committee had noted this statement and reiterated the hope that the reform of the Disciplinary and Penal Code of the Merchant Navy would enable the Government, in the near future, to bring its legislation into conformity with the Convention in law and in practice, as indicated above. The Committee requested the Government to provide a copy of the texts of the new provisions as soon as they have been adopted.

66. In its 2000 direct request on Convention No. 111 the Committee noted with interest the many initiatives taken by the Government since 1999, in accordance with its intention of making equality of opportunity between men and women one of the main components of its policy. Recalling the budgetary and administrative difficulties related to contracts for mixed employment and affirmative action in support of women entering male-dominated posts, pursuant to Labour Code L.123-4-1, the Committee requested the Government to provide information on the progress achieved in the conclusion of these types of contracts. The Committee noted these recent initiatives with interest and requested the Government to provide information on their follow-up and impact in terms of improving the situation of women on the labour market and in the workplace in both law and practice.

67. The Committee noted that the latest annual survey of the National Consultative Commission on Human Rights (CNCDH) on racism revealed a rise in racism in France. The Committee also noted with interest, from the Government's supplementary report, the various measures taken by the Government to combat racial discrimination in general, and particularly in the field of labour. The Committee also noted that the National Consultative Commission on Human Rights is examining in particular the measures and means of strengthening the combat against discrimination, particularly in the field of employment, since the measures which had been taken do not appear to have succeeded in eliminating, or slowing down, acts of discrimination affecting various aspects of life, and particularly access to employment and training. The Committee wished to be kept informed of the results of the activities undertaken by the commissions on access to citizenship (CODAC), and on the measures which had been taken or are envisaged by the Government to give effect to the recommendations of the observation bodies which had been established and the CNCDH, including, for example, changes in the burden of proof of acts of discrimination, so that it no longer lies solely on the victim, or the strengthening of sanctions against any employer found guilty of discrimination on grounds of national extraction, colour or race.

68. In an observation of 2000 on Convention No. 156, the Committee recalled that it had noted the comments made by the French Confederation of Christian Workers (CFTC) relating to the parental allowance for bringing up children and the guarantees which should also be

accorded to beneficiaries of the allowance in terms of career development and continuity of social protection. It also had noted the comments of the French Democratic Confederation of Labour (CFDT) concerning the needs of workers with family responsibilities. The Committee noted that the Government's report contains no reply to the concerns expressed by these trade unions.

69. The Committee also recalled the concerns expressed by the CFDT, in relation to article 8 of the Convention, according to which the protection envisaged in sections L.122-45 and L.123-1 of the Labour Code against discrimination based on family situation is far from meeting the real needs of workers with family responsibilities and that there is currently no provision in French legislation prohibiting discrimination in employment against these workers. The Committee therefore requested the Government to supply information on the national policy and legislative measures intended to protect workers with family responsibilities against discrimination, including dismissal, and to promote equality of opportunity and treatment for them.

Article 7

Equal remuneration

70. In its 2000 direct request on Convention No. 100, the Committee noted with interest the numerous initiatives undertaken by the Government to promote occupational equality between men and women in France, and particularly the report by Mrs. B. Majnoni d'Intignano, of the Council of Economic Analysis, on the economic aspects of differences between the sexes, prepared at the Government's request. It noted the causes of the persistence of wage differences between men and women, which were identified in the report as having their origin, on the one hand, in discrimination on the labour market which makes it difficult for women to gain access to "good" jobs, and, on the other hand, individual choices related to reconciling professional life with family life, where the distribution of domestic tasks remains very unequal. The Committee also awaited with interest completion of the mission of analysing the contribution of the 35-hour week to decreasing inequalities between men and women.

71. The Committee also noted with interest that the Higher Council of Occupational Equality is pursuing its activities to promote occupational equality, with two new working groups set up in 1998 and three groups established in 1999. The Committee also noted with interest that, at the request of the Higher Council of Occupational Equality, a guide had been prepared on "equal remuneration for women and men" for negotiators, as well as a study on "comparing the value of work and the evaluation of employment with a view to wage equality between men and women: feasibility study".

72. The Committee noted with interest the adoption of Act No. 99-585 of 12 July 1999 establishing parliamentary delegations for women's rights and equality of opportunity between men and women. The Committee noted that these parliamentary delegations are entrusted with monitoring the implications for women's rights and equality of opportunity for men and women in parliamentary assemblies.

73. The Committee noted with interest the adoption at its first reading by the National Assembly on 7 March 2000 of the Bill respecting occupational equality between men and women, which establishes the specific obligation to negotiate at the enterprise level on issues of equality between men and women, subject to penal sanctions, as well as the "balanced representation" of men and women in selection bodies in the public service. The Committee asks the Government to keep it informed of the progress made and the final adoption of the Bill.

Safe and healthy working conditions

74. In its observation of 1998 on the Safety Provisions (Building) Convention, 1937 (No. 62) the Committee noted with interest the information contained in the Government's report and the various texts of law and decrees that have come into force concerning safety and health in the building and public works sector. The Committee noted the Government's statement that Decree No. 94-1159 of 26 December 1994 would help apply the provisions of the Convention, in particular those concerning scaffolds, hoisting appliances, and other works and first-aid appliances. In addition the Committee noted with interest the Government's statement that the new provisions give a new impetus to protection in this sector by the improvement resulting from the measures for collective protection provided for therein, through the coordination entrusted to a specialist coordinator. It also noted with interest the statement that Decree No. 95-607 of 6 May 1995, which extends coverage of safety and health provisions to independent workers and employers executing their own building works, had permitted to combat attempts at avoiding the application of safety and health regulations by using independent workers and employers constructing their own works.

75. In an observation of 2000 on the Radiation Protection Convention, 1960 (No. 115), the Committee noted that the Government's report contained no reply to previous comments. It hoped that the next report would include full information on the matters raised in its previous direct request. The Committee had noted that the Government indicates that by the year 2000 the maximum permissible dose of exposure of workers to ionizing radiation currently in force would be replaced by a new limit of 100 mSv over five consecutive years, in accordance with the prescriptions of Directive 96/29/Euratom, adopted in May 1996. With reference to its previous observation and its 1992 general observation, the Committee had recalled that the International Commission on Radiological Protection (ICRP), in recommendations formulated in 1990, sets a limit of 20 mSv per annum averaged over five years provided that the actual dose does not exceed 50 mSv in any one year. Moreover, in 1994 the limits established by the ICRP were incorporated in the International Basic Safety Standards. The Committee had hoped that the Government would soon be in a position to report the adoption of provisions in conformity with the dose limits mentioned in its 1992 general observation, in the light of current knowledge such as that contained in the 1990 ICRP Recommendations and the 1994 International Basic Safety Standards.

Article 9

76. The 1998 observation on the Old-Age Insurance (Industry, etc.) Convention, 1933, (No. 35) noted with interest that section 42 of Act No. 98-349 of 11 May 1998 respecting the entry and residence of foreigners in France and the right of asylum has provided for the insertion in the Social Security Code of section L.816-1 by virtue of which Chapter I of Book Eight of the

Social Security Code, establishing in particular the supplementary allowance of the National Solidarity Fund (FNS), is applicable to persons of foreign nationality who are in possession of a resident's permit or other documents justifying their lawful residence in France, *notwithstanding any provision to the contrary*. The Committee also noted that, according to the information provided by the Government, section 42 of the above Act repeals any condition of nationality for the granting of non-contributory benefits (benefits for disabled adults, supplementary old-age pensions, special old-age pensions) to foreigners who reside in France on a regular and permanent basis. Consequently, the Committee was given to understand that section L.815-5 of the Social Security Code, under which supplementary benefits are only due to foreigners on condition of the conclusion of reciprocal international agreements, had been repealed. The Committee invited the Government to confirm in its next report whether this is the case and, should this not be the case, to provide information on the manner in which section L.815-5 of the Social Security Code would continue to be applied.

77. In its 2000 observation on the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) the Committee of Experts stated that for many years it had been drawing the Government's attention to the need for measures to bring the national legislation into full conformity with the Convention as regards: (a) the *restrictive nature* of the pathological manifestations listed under each of the diseases in the schedules of the national legislation; (b) the absence from these schedules of an item covering in general terms, as in the Convention, poisoning by *all halogen derivatives of hydrocarbons of the aliphatic series* and by *all compounds of phosphorus*; and (c) the omission of certain products mentioned by the Convention, the handling or use of which are liable to cause *primary epitheliomatous cancer of the skin*. It had noted with interest in this connection the establishment of a supplementary system for the recognition of occupational diseases under which a characterized disease which is not included in a schedule may also be recognized as being occupational in origin when it is established that it is fundamentally and directly caused by the normal occupational activity of the victim and leads to the latter's death or a permanent incapacity at least equal to a given percentage (new section L.461-1, paragraph 4 of the Social Security Code). This system is based on a case-by-case examination carried out by regional committees for the recognition of occupational diseases in an adversarial investigation. The Committee asked the Government to provide information on *the manner in which the direct and fundamental link between the disease and the normal occupational activity of the victim* (as set out in paragraph 4 of section L.461-1 of the Social Security Code) *is established and proved*. In the specific cases of the diseases included in the schedule attached to the Convention.

78. In its 1998 observation on Convention No. 118 the Committee noted with interest that section 42 of Act No. 98-349 of 11 May 1998 on the entry and residence of foreigners in France and on the right to asylum has inserted into the Social Security Code sections L.816-1 and L.821-9, according to which Titles I and II of Book Eight of the Social Security Code, providing respectively the supplementary allowance of the National Solidarity Fund (FNS) and the allowance for disabled adults, have been made applicable to foreign nationals possessing residence permits or other documents regularizing their stay in France, notwithstanding any provision to the contrary.

79. Regarding article 4, paragraph 1 (branch (d)) (Invalidity benefit) and branch (f) (Survivors' benefit) the Committee had noted that the legislation imposed the condition of

residence in France for the provision of social security benefits (in this case invalidity and survivors' benefits) to foreigners insured under the general scheme (section L.311-7 of the Social Security Code), the agricultural scheme (section 1027 of the Rural Code) and the mines scheme (section 184 of Decree No. 46-2769 of 27 November 1946). In its report for the period 1 July 1991 to 30 June 1992, the Government had indicated that concerning invalidity pensions, and invalid widowers' or widows' pensions, the condition of residence shall be fulfilled at the time of making a claim in the case of nationals of a country with which France does not have an agreement. It added that, with regard to survivors' pensions, the benefit of a reversionary pension may, in the case where the deceased insured was not a national of a country with which France has entered into an agreement, be obtained in the following situations: the deceased insured person has already obtained validation of the right to an old-age pension; the insured person who had not exercised the right to the pension had resided in France at the moment of death. The Committee had noted that a condition of residence always exists for non-national beneficiaries, but only at the moment of exercising the right to benefit, that is to say, at the time when presenting the request to receive the invalidity or survivors' pension. In these conditions, the Committee hoped that, in all cases where the insured or the deceased was subject to the social security system in France at the moment of the contingency, appropriate measures would be taken, concerning branches (d) and (f), to ensure the application of this provision of the Convention for payment of benefits, both in law and practice, without condition of residence for nationals of all States bound by the Convention.

Article 10

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

80. In its 2000 observation on Convention No. 138 the Committee noted section 114 of the Maritime Labour Code (modified by Act No. 97-1051 of 18 November 1997) which provides that seafarers under 18 years of age should not work on boilers, water tanks, holds or in compartments where high temperature can be harmful to their health, as well as section 115 which sets the minimum age for working on board ship at 16 years of age. The Committee noted that new section 8 of the Maritime Labour Code expands the provisions of the General Labour Code regarding the apprenticeship of young seafarers. It further noted that these provisions would be adapted by a decree of the Council of State to facilitate the recruitment of young seafarers. The Committee requested the Government to indicate whether this decree has already been adopted and, if so, to forward a copy of it with the next report.

81. The Committee noted the Government's indication in its report that the employment of children from 14 to 16 years of age as domestic workers is extremely rare. Such cases were considered as illegal employment and were dealt with as such. The Committee requested the Government to provide information concerning such cases as well as the measures taken to ensure compliance with the relevant provisions of the Convention.

82. The Committee also noted the information in the Government's report concerning a special committee which considers applications for individual authorizations for participation in performances or issues approvals to agencies holding licences allowing them to engage children without individual authorization. It noted that this committee, the sessions of which are attended

by the different administrations concerned, works in most of the departments where its functions, in particular the frequency of meetings, are practically determined in accordance with the importance and the frequency of the cultural appearances which needs to employ children. The Committee also noted the Government's statement that this measure provided for by section L.211-7 of the Labour Code and rules which provide for the function of the committees guarantee the conditions of employment for the children in this field. However, it again recalled that article 8 of the Convention allows exceptions to the prohibition of employment or work provided for in article 2, for such purposes as participation in artistic performances only when the competent authority grants an individual permit which prescribes the conditions in which employment or work is allowed. The Committee also recalled that ratification of a Convention entails the enactment of texts to give effect to the provisions of the instrument. In this regard, the Committee requested the Government to indicate the measures taken or contemplated to bring national texts into conformity with the aforementioned obligations under the Convention.

83. The Committee of Experts furthermore addressed direct requests to the Government in 1996 on Conventions Nos. 102 and 152, in 1998 on Conventions Nos. 131, 136 in 1999 on Convention Nos. 142 and in 2000 on Conventions Nos. 27, 52, 87, 90, 96, 102, 115, 127, and 148.

E. Ireland

84. No information concerning Ireland has been supplied to the Committee previously.

85. The following relevant Conventions have been ratified and are in force for Ireland: 2, 6, 11, 12, 14, 16, 19, 26, 27, 29, 32, 44, 62, 73, 81, 87, 88, 96, 98, 99, 100, 102, 105, 111, 121, 122, 124, 132, 138, 142, 159, 177, 178 and 182.

Article 6

86. In its 2000 direct request on Convention No. 29 the Committee recalled that in its previous comments it had noted the observations made by the Scheme Workers Alliance (SWA) in communications dated 18 January, 14 May and 31 August 1999, as well as the observations made by the Amalgamated Transport and General Workers' Union in a communication dated 16 August 1999, concerning the application by Ireland of a number of ratified ILO Conventions, including Conventions Nos. 29 and 105. The unions provided detailed submissions expressing concern about the situation of the unemployed, the conditions under which payments are made under the Irish Employment Action Plan (EAP) and the limited availability of jobs, which were low paying and not necessarily suited to the skills and interest of the unemployed. The Government responded and denied breaches of Conventions Nos. 29 and 105, referring to developments in employment and labour market policy which were articulated in the EAP. The Government also referred to its commitment to implement the EU Employment Guidelines, as well as its preventative strategies concerning young unemployed.

87. In this regard, the Committee had come to the conclusion that the unions' allegations did not raise matters which fall within the scope of Convention No. 29. The problems of unemployment and the scarcity of work which may only be found in low-level positions so that persons perform work which they may not wish to do in order to maintain themselves, do not

usually fall for consideration under the Convention. There have been occasions when such circumstances were considered to come under the Convention, such as cases where acquired rights under a contributory unemployment insurance scheme were subjected to new conditions bearing on the range of work to be accepted by benefit recipients; or where certain categories of welfare recipients, such as asylum-seekers, were denied by the authorities access to the general labour market, while being compelled to perform certain jobs under the menace of losing their only means of subsistence. In the present case, however, the issue appears to be rather one of general economic constraints.

88. The Committee, in this context, also recalled that the Governing Body committee set up to examine a representation concerning a comparable scheme in 1997, indicated the following: "In a case where an objective situation of economic constraint exists but has not been created by the Government, then only if the Government exploits such situation by offering an excessively low level of remuneration could it to some extent become answerable for a situation that it did not create. Moreover, it might be held responsible for organizing or exacerbating economic constraints if the number of people hired by the Government at excessively low rates of pay and the quantity of work done by such employees had a knock-on effect on the situation of other people, causing them to lose their normal jobs and face identical economic constraints." (GB.270/15/3, para. 30).

89. The observation of 1999 on Convention No. 105 noted with satisfaction that the Merchant Shipping (Miscellaneous Provisions) Act, 1998 (No. 20) had repealed section 225 of the Merchant Shipping Act, 1894, and amended section 221 of the same Act, which provided that certain disciplinary offences by seafarers were punishable with imprisonment (involving, under section 42 of the rules for the Government of Prisons, 1947, an obligation to work), and also repealed sections 222, 224 and 238 of the Merchant Shipping Act, under which seafarers absent without leave could be forcibly conveyed on board ship. The Committee noted the Government's indication in its report that the Rules for the Government of Prisons, 1947, had not yet been replaced by the proposed new rules, which are likely to be introduced in the first quarter of the year 2000.

Article 7

Equal remuneration

90. In its direct request of 1999 on Convention No. 100, the Committee noted that the Employment Equality Act 1998 was signed into law in June 1998, repealing the Anti-Discrimination (Pay) Act, 1974, and the Employment Equality Act, 1977. The Committee noted with interest that, as with the Act of 1974, the new Act reflects the principle of equal remuneration for men and women for work of equal value. It noted the Government's statement that the anti-discrimination provisions of the Act would be brought into operation in the first half of 1999, following establishment of the infrastructure for equality contemplated in the new law.

Rest, limitation of working hours and holidays with pay

91. In its 2000 direct request on the Holiday with Pay Convention (Revised), 1970 (No. 132), the Committee noted, once again, the Government's statement in its latest report that the

Holidays (Employees) Act, 1973 is undergoing a review and that the Committee's previous comments would be given consideration in the matter. In comments it had been making since 1978, the Committee had observed that section 3, subsection 6, of the Holidays (Employees) Act, which provides that employees whose remuneration consists partly of food and/or board may decide not to take annual holiday if their wages are doubled, was in conflict with the Convention. The Committee once again expressed the hope that the necessary measures would be taken in the near future to bring the legislation into conformity with the Convention and requested the Government to indicate, in its next report, the progress made in this regard.

Article 10

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

92. In its observation of 2000 on Convention No. 138, the Committee noted that the Government's report contains no reply to previous comments. It therefore repeated its previous observation, in which it had noted the adoption of the new Protection of Young Persons (Employment) Act, 1996. It had noted with interest that, under this Act, the minimum age for full-time work had been raised from 15 to 16 years of age.

93. In its direct request of 2000 on the same Convention the Committee hoped that the next report would include full information on the matters raised in its previous direct request. The Committee recalled that the Convention applies not only to work under an employment contract but to all types of work or employment. It also noted the Government's earlier indication concerning this point, that the Department of Labour had not been made aware of any specific cases arising with regard to persons working in a non-contractual nature. The Government also had stated that this point would be taken into consideration during the reviewing process of the Protection of Young Persons (Employment) Act. However, the new Act still does not cover self-employment. The Committee hoped that the Government would continue to indicate any further steps which may be taken to ensure the application of the minimum age to any type of work.

94. The Committee of Experts furthermore addressed direct requests to the Government in 1998 on Convention Nos. 26, in 1999 on Convention No. 121, and in 2000 on Conventions Nos. 81 and 159.

E. Jamaica

95. Information concerning Jamaica has been previously supplied to the Committee in 1980 and 1989.

96. The following relevant Conventions have been ratified and are in force for Ireland: 6, 11, 13, 14, 26, 29, 87, 98, 100, 105, 111, 138, and 182.

Article 6

97. In its 2000 observation on Convention No. 29 the Committee noted that no report had been received from the Government. It therefore had to repeat its previous observation. The Committee had noted that, under section 155 (2) of the Correctional Institution (Adult Correction Centre) Rules of 1991, no inmate may be employed in the service of, or for the private benefit of, any person, except with the authority of the Commissioner or in pursuance of special rules. The Committee had noted, from the Government's report, that the Correctional Services Production (COSPROD) Holdings Limited, established in 1994, was created to manage the integration of the process of rehabilitation through skills training and productive utilization of the human resources in the correctional facilities. The Committee had noted the Government's information that under the programme inmates work under the conditions of a freely accepted employment relation, with their formal consent and subject to guarantees regarding the payment of normal wages. The Committee had drawn the Government's attention to its General Report of 1998 (particularly paras. 116-125), which recalls that any work exacted from any person as a consequence of a conviction in a court of law is exempted from the scope of the Convention, provided it is carried out under the supervision and control of a public authority and that such person is not hired to or placed at the disposal of private parties.

98. In this context, the Committee had requested the Government to provide a copy of the rules governing inmate work in the framework of COSPROD and the practice of supervision of that work under the COSPROD programme, as well as any special rules under section 155 (2) of the Correctional Institution (Adult Correction Centre) Rules of 1991, particularly with respect to the creation and the role of COSPROD. The Committee hoped that the Government would make every effort to take the necessary action in the very near future.

99. In the 1999 observation on Convention No. 105 the Committee stated that for a number of years, it had commented on sections 221, 224 and 225 (1) (b), (c) and (e) of the 1894 Merchant Shipping Act which provided for the punishment of various disciplinary offences with imprisonment (involving an obligation to perform labour under the Prisons Law) and for the forcible conveyance of seafarers on board ship to perform their duties. The Government had indicated in its report that the new Jamaica Shipping Act, 1998, came into operation on 2 January 1999, and that the provisions related to the forcible conveyance of seafarers on board ship and the punishment of disciplinary offences committed under the Act were not included in the new Act.

100. The Committee had noted, however, that the punishment of disciplinary offences with imprisonment (involving an obligation to perform labour) is still provided for in sections 178 (l) (b), (c) and (e) and 179 (a) and (b) of the new Act. While the new Act contains no provisions concerning the forcible conveyance of seafarers on board ship, the offences of desertion and absence without leave are still punishable with imprisonment (involving an obligation to work) (section 179). Similarly, penalties of imprisonment are provided for in section 178 (l) (b), (c) and (e) inter alia for wilful disobedience or neglect of duty or combining with any of the crews to impede the progress of the voyage, and by virtue of section 178 (2) an exemption from liability under subsection (1) applies only to seafarers participating in a lawful strike after the ship has arrived and has been secured in good safety to the satisfaction of the master at a port, and only at a port in Jamaica.

101. The Committee had pointed out once again, with reference to paragraphs 117-119 and 125 of its 1979 General Survey on the abolition of forced labour, that provisions under which penalties of imprisonment (involving an obligation to work) may be imposed for desertion, absence without leave or disobedience are incompatible with the Convention. Only sanctions relating to acts that are likely to endanger the safety of the ship or the life or health of persons (e.g. as provided for in section 177 of the new Shipping Act) have no bearing on the Convention.

102. The Committee therefore expressed the firm hope that the necessary measures would be taken in the near future to bring the legislation into conformity with the Convention, e.g. by amending or repealing the above-mentioned provisions of the Shipping Act, 1998, and that the Government would provide information on progress made in this regard.

103. In the 2000 direct request on Convention No. 111, the Committee of Experts noted with regret that the Government's report had not been received and therefore repeated matters raised in its previous direct request. The Committee had noted from the Government's report that the Constitution is currently being amended and that the reforms would remedy the omission of the prohibition against sex discrimination in section 24 of the Constitution. Noting also from the Government's comments to the Human Rights Committee (CCPR/SR.1623/Add.l) that a preliminary draft bill regarding the amendment of Chapter III of the Constitution includes the right to freedom from discrimination on the basis of sex, the Committee had requested the Government to report on the progress made in bringing the constitutional provision on discrimination into conformity with article 1, paragraph (a), of the Convention and to supply a copy upon adoption of the amended Constitution.

104. The Committee had noted that intra-ministry committees had been established to track the progress of the 1987 National Policy Statement on Women. It had asked the Government to provide information on any obstacles as well as advances that have been identified in this process in regard to the promotion of equality of opportunity and treatment between men and women in employment and occupation. The Committee also had noted with interest the announcement by the Prime Minister of the establishment of the Commission on Gender and Social Equity and the establishment of a steering committee in the Policy Unit of the Office of the Prime Minister to recommend a framework for which gender equity can be achieved as a social policy goal through an empowerment process. The Committee had requested the Government to provide information on the policy framework and the mandate and activities of the Commission, including its linkages with the existing national machinery on the status of women and the manner in which it will assist in the promotion of equality of opportunity and treatment in employment and occupation.

105. The Committee had welcomed the efforts by the Government to increase women's access to vocational training in non-traditional areas and to encourage employers to employ more women, particularly in non-traditional occupations, such as through the tax rebate system used in the School-leavers' Training Opportunities Programme. It nonetheless had observed, from the data provided in the 1995 annual report on enrolments and outputs of the Human Employment and Resources Training (HEART)/National Training Agency (NTA), the rather marginal enrolment of men in non-traditional areas such as commercial skills, apparel and sewn product skills and hospitality skills training. The Committee had also invited the Government to indicate

whether any non-formal education or training programmes exist allowing more disadvantaged groups of men and women to have equal opportunities in educational and vocational training.

106. The Committee had noted the Government's statement that although no legislation has been passed on sexual harassment in the workplace, the topic has received much attention through awareness-raising activities which are aimed at improving the treatment of women in employment.

Article 7

Equal remuneration

107. The Committee noted in a direct request of 2000 that the Government's report on Convention No. 100 had not been received. The Committee had noted the information in the Government's report and the attached schedules setting out the classification/pay levels and distribution by sex in the public service as well as the statistical information on the prevailing wage scales of men and women in some larger companies in the garment industry. The Committee also had acknowledged the information on the discontinuation of the payment of marriage allowances to male teachers only.

108. The Committee had also noted from the Government's report that no amendments to the Employment (Equal Pay for Equal Work) Act of 1975 had been made. The Committee had been pointing out for years that section 2 of the Act only refers to "similar" or "substantially similar" job requirements, whereas the Convention provides for equal remuneration for work of "equal value", even though the work is of a different nature. In this regard, the Committee had drawn the Government's attention to paragraphs 19 and 20 of the 1986 General Survey on equal remuneration explaining "work of equal value". It had hoped that the next report will include information on the Government's intention to ensure conformity with *article 1 of the Convention* through legislation or other measures.

109. The Committee had noted the information in the Government's report on the multiple wage system applied by the manufacturing industry, based on the type and complexity of the manufacturing operation, with the National Minimum Wage (Amendment) Order, 1996 setting the wage floor. In this regard, the Committee had welcomed the statistical information provided by the Government on the actual monthly and weekly paid wage scales of employees in two larger garment factories. The data provided had allowed the Committee to conclude its long-standing question about the existing differentials in the pay scales and job categories in the garment industry, as it appears that systemic wage differentials no longer exist in the garment industries. However, the Committee had noted that in some areas, especially with regard to weekly wages of skilled and unskilled employees, the wage gap appears to correlate to some extent with gender. The Committee had hoped that the Government, in its next report, would provide similar statistical information on wage scales in the printing industry.

Article 8

110. The 2000 observation on Convention No. 87 noted that the Government's report had not been received. The Committee recalled that for over 20 years, it has been commenting on the

need to amend provisions of the Labour Relations and Industrial Disputes Act No. 14 of 1975, as amended ("the Act"), which empower the Minister to submit an industrial dispute to the Industrial Disputes Tribunal and hence to terminate any strike. The Committee had noted in the past that the Minister's powers to refer an industrial dispute to the Tribunal are too broad, the list of essential services contained in the first schedule to the Act is also too extensive and the notion of a strike which is likely to be "gravely injurious to the national interest" can be interpreted very widely. The Government had previously stated that it was making significant progress in reforming the Act through the Labour Advisory Committee. It had informed the Committee that an amendment to the first schedule of the Act had been proposed, which would result in the deletion of the following services from the list of those deemed to be essential: public passenger transport service; telephone services; any business the main functions of which consist of the issue and redemption of securities, government securities and the trading in such securities, management of the official reserves of the country, administration of exchange control, providing banking services to the Government; and air transport services for the carriage of passengers, baggage, mail or cargo destined to or from Jamaica or within Jamaica. With respect to the power of the Minister to refer an industrial dispute to compulsory arbitration, the Government had stated that "the lLO's concern has been noted. This section of the Act is still in the process of revision. Any revised decision on this particular section of the Act will be communicated to the ILO as soon as possible". It noted further that the amendments that had been proposed thus far had emanated from the Labour Market Reform Committee, which considered the amendments necessary in the light of changes that have taken place over the years. In this regard, the Committee once again recalled that the provisions of the Act could be broadly interpreted in such a way as to permit the use of compulsory arbitration in situations other than those involving essential services or an acute national crisis. It therefore expressed the firm hope that the proposals of the Labour Market Reform Committee to amend the list of essential services would be adopted at an early date.

111. In its 2000 observation on Convention No. 98, the Committee, due to the absence of a report by the Government, repeated its previous observation. The Committee had referred to the denial of the right to collective bargaining in a bargaining unit when no single union represents at least 40 per cent of the workers in the unit in question or when, if the former condition is satisfied, the union engaged in the procedure of obtaining recognition for collective bargaining purposes does not obtain 50 per cent of the votes of the total number of workers (whether they are affiliated or not to this union), where a ballot is requested by the trade union (section 5 (5) of Act No. 14 of 1975 and section 3 (l) (d) of its Regulation). The Committee considers that where there is no collective agreement and where a trade union does not obtain 50 per cent of the votes of the total number of workers required by law, this trade union should be able to negotiate at least on behalf of its own members. The Committee also considers that where one or more trade unions are already established as bargaining agents, a ballot should be made possible when another trade union claims that it has more affiliated members in this bargaining unit than those trade unions, and thereby invokes its most representative status in the unit in order to be considered as a bargaining agent. The Committee hoped that the Government would make every effort to take the necessary action in the very near future.

112. The Committee of Experts furthermore addressed direct requests to the Government in 1997 on Convention No. 16, in 1998 on Conventions Nos. 26 and 117, in 1999 on Convention Nos. [text missing] and in 2000 on Conventions Nos. 81 and 122.

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 in a document submitted to the Preparatory Committee for the World Conference on Human Rights (A/CONF.157/PC.6/Add.3).

[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.

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

Country	Document reference
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
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

Country	Document reference
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

Country	Document reference
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
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

Country	Document reference
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

Country	Document reference
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

Country	Document reference
Syrian Arab Republic	E/1980/35 E/1981/41 E/1990/9 E/1992/4
Trinidad and Tobago	E/1989/6
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
United Kingdom (Hong Kong)	E/1996/98
United Kingdom (Non-metropolitan territories)	E/1979/33 E/1982/41 E/1985/63 E/1996/98
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

Country	Document reference
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
