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EUROPEAN SOCIAL CHARTER

Comments by the European Trade Union Confederation (ETUC)
concerning the supervision cycle XXII-3 / 2022
on 'Labour Rights'

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CYCLE 2022



Observations
by the European Trade Union Confederation (ETUC)
concerning the supervision cycle XXII-3 / 2022
on 'Labour Rights'

to the European Committee of Social Rights (ECSR)

(4.7.2022)

Overview

GENERAL OBSERVATIONS.....	3
INTRODUCTION	3
REPORTING OBLIGATIONS	3
SPECIFIC OBSERVATIONS.....	4
GENERAL INTRODUCTION	4
<i>General considerations</i>	4
<i>The sources for the references to international law material</i>	5
GENERAL SCOPE – VULNERABLE GROUPS OF WORKERS	7
ARTICLE 2 - RIGHT TO JUST CONDITIONS OF WORK	7
<i>Paragraph 1</i>	7
<i>Paragraph 3</i>	9
<i>Paragraph 5</i>	9
ARTICLE 4 – FAIR REMUNERATION	10
<i>Paragraph 1</i>	10
<i>Paragraph 3</i>	11
<i>Paragraph 5</i>	27
ARTICLE 5 – THE RIGHT TO ORGANISE	30
ARTICLE 6 - THE RIGHT TO BARGAIN COLLECTIVELY	45
<i>General considerations</i>	45
<i>Paragraph 1</i>	45
<i>Paragraph 2</i>	47
<i>Paragraph 4</i>	59
ARTICLE 28 – THE RIGHT OF WORKERS’ REPRESENTATIVES TO PROTECTION IN THE UNDERTAKING AND FACILITIES TO BE ACCORDED TO THEM	66
TABLE OF CONTENTS.....	70

General observations

The European Social Charter (ESC) attributes a privileged role to the European Trade Union Confederation (ETUC) according to Article 27 para. 2 ESC. That is why the ETUC would like to contribute to the supervisory system of the ESC by providing the European Committee of Social Rights (ECSR) with the information aimed at serving to get a fuller picture of the situation in the countries under supervision.

Introduction

The ETUC fully supports the strengthening of the European Social Charter in general and its supervisory system in particular.¹ It is in this vein that the ETUC, for the first time, directly addresses its Observations to the ECSR.

The Observations mainly serve to assist the ECSR in fulfilling its supervisory tasks. Indeed, the ECSR has at several occasions made it clear that it attributes important weight to international standards in general and their assessments of the situations in individual countries in particular.

In its Digest 2018 the ECSR stated i.a.

Interpretation of the Charter in the light of other international instruments

The Committee interprets the Charter in the light of other international treaties which are relevant in the field of rights guaranteed by the Charter as well in light of the interpretation given to these treaties by their respective monitoring bodies.²

Therefore, in relation to ‘Labour Rights’, the ETUC focuses its Observations on the compilation of the assessments of the following main supervisory bodies in relation to

- the United Nations (UN), i.e. the Committee on Economic, Social and Cultural Rights (CESCR),
- the International Labour Organisation (ILO), i.e. the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the Committee on Freedom of Association (CFA) and
- the Council of Europe (CoE), i.e. the European Court of Human Rights (ECtHR)³.

Reporting obligations

Before going into details on the specific information, the ETUC would like to make some general observations on the current state of the reporting obligations by Contracting Parties.

The ETUC is aware of the fact that the whole procedure is currently examined by the GT-CHARTÉ in relation to enhance the efficiency of the procedure and to provide therefor some possible solutions. As privileged partner (Article 27(2) ESC), the ETUC strongly demands to be fully associated in this process.

¹ See i.a. [‘ETUC Resolution on the 60th Anniversary of the Council of Europe European Social Charter and the 25th Anniversary of the Revised’](#), adopted at the Executive Committee of 22-23 March 2021.

² p. 48, for the specific role of the IACTHR’s rulings particularly in respect of freedom of association, the right to bargain collectively and the right to strike see below under Article 6.

³ The following compilation does not take account of other possibly relevant CoE materials, like those coming from other Committees or Recommendations either from the Committee of Ministers or the Parliamentary Assembly.

At a more technical but nevertheless important level, the ETUC well understands the problem of workload in respect of the ECSR but also – and in particular – of the Secretariat which continues to be under-staffed already for a long period.

Against this background, the **ECSR** has reacted in several ways to reduce the workload. In line with its ‘targeted and strategic approach’ (adopted in 2019 and continued in 2020) and for the purpose of the Governments’ reports it has not asked that national reports address all accepted provisions in the Group. However, certain provisions could not be excluded from reporting:

- when connected to other provisions which are the subject of specific questions
- when the previous conclusion was one of non-conformity
- When the previous conclusion was one of deferral due to lack of information
- When the previous conclusion was one of conformity pending receipt of specific information.

However, the **Committee of Ministers (CM)** in its decisions of 19 March and of 2/3 April 2014 required additional information in case of changes which occurred during the reference period:

Is 2. National reports should focus on ECSR Conclusions of non-conformity from the previous cycle as well as on questions raised. **In any case, additional information should be provided on changes occurred since the last report.**⁴ (Emphasis added)

More generally, the **ESC** in its Article 21 requires reports in the following terms:

The Contracting Parties shall send to the Secretary General of the Council of Europe a report at two yearly intervals, in a form to be determined by the Committee of Ministers, concerning the application of such provisions of Part II of the Charter as they have accepted.

This means that the current reporting system is not in line with the legal requirements of Article 21 ESC because the current four-years interval is contrary to the requested two-yearly interval for the periodicity of reports on ‘such provisions of Part II of the Charter as they have accepted’ i.e. all accepted provisions (and the competences of the CM are only related to the form not to the periodicity).

A reference to the ‘Turin’ Amending Protocol (1991) which allows the CM to define the reporting obligations more generally appears to be excluded because this Protocol has not yet legally entered into force (also because of the German Government’s refusal to ratify it). Moreover, it appears also excluded to refer to the CM’s decision allowing the application of the Turin Protocol if its wording is respected. However, the words ‘at **two** yearly intervals’ cannot be interpreted as allowing ‘**four** yearly intervals’. (Emphases added).

Accordingly, full reports on all accepted provisions should be provided at two-yearly intervals. Nevertheless, based on CM’s 2014 decisions the Governments’ reports should at least contain information on all accepted provisions in Group 3 if there are any changes during the reference period (2017 -2020).

Specific observations

General introduction

General considerations

⁴ https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c6489

As Human Rights, 'Labour Rights' are at the very heart of the ESC. Although not at all limited to the relevant Articles chosen for 'Group 3' (mainly Articles 2, 4 – 6 but also those in the revised ESC version) For the ETUC, it is therefore of utmost importance how the ECSR will ensure that labour rights are effectively respected, protected and fulfilled as well as violations are fully remedied throughout the Contracting Parties.

Several general elements could contribute to achieve this objective.

A first relates to interpretation. The ECSR has already shown in several decisions that it understands the ESC as 'living instrument' addressing new challenges while upholding its own principles. In general, it also underlines the need for effectiveness as well as for references to international law materials. For the latter, these Observations aim to serve as a point of (surely not exhaustive) references. These approaches could and – from the point of view of the ETUC should - be strengthened also in the reporting system.⁵ In this vein, a few 'General considerations' were added at the beginning of specific provisions before going into the respective references from international law materials.

A further approach relates to enforcement. As the ECSR has done it already in several instances, a systematic approach to examine the effectiveness of enforcement should be used for all ESC provisions. This should include in particular judicial and administrative procedures requiring i.a. the respective financial and human resources to deal adequately with the implementation of all ESC rights. However, this is not limited to the 'normal' enforcement avenues. For example, for the problem of enforcing labour rights in the supply chain, the ECSR might wish to take into account in particular the UN CESCR's General Comment No. 24 (2017) on Human Rights and Business⁶ as well as the respective Committee of Minister's Recommendation.⁷

At a more technical level, another element could be that the ECSR follows mainly UN Committees in requiring from States being examined under the respective Covenants or Conventions to require Governments that they should disseminate in particular the respective results of the examination (here: the 'Conclusions') to the public in an easily accessible and understandable way.

The sources for the references to international law material

The sources referred to below are limited to the reference period of 2017 – 2022.

The information provided also only covers the countries concerned by this reporting cycle, not those which have/had to provide only a 'simplified report' on the ECSR Decisions on the merits under the Collective Complaints Procedure Protocol.⁸

It also does not provide information on Ukraine (excused for this reporting cycle) and Russian Federation (as not being member of the CoE anymore, although having been member during the reference period). The same applies to countries having not accepted the relevant ESC provisions.

⁵ For purposes of inspiration the ECSR might wish to take research into account, e.g. N Bruun, K Lörcher, I Schömann and S Clauwaert (eds.), *The European Social Charter and the Employment Relation*, (Oxford, Hart Publishing), 2017.

⁶ <https://digitallibrary.un.org/record/1304491> (possibly taking also into account the work on the Draft Treaty on Business and Human Rights).

⁷ Human Rights and business – [Recommendation CM/Rec\(2016\)3 of the Committee of Ministers to Member States \(2016\)](https://edoc.coe.int/en/fundamental-freedoms/7302-human-rights-and-business-recommendation-cmrec20163-of-the-committee-of-ministers-to-member-states.html). <https://edoc.coe.int/en/fundamental-freedoms/7302-human-rights-and-business-recommendation-cmrec20163-of-the-committee-of-ministers-to-member-states.html>

⁸ For this cycle, this concerns more in particular the following countries: Croatia, Cyprus, Czech Republic, Netherlands, Norway, Slovenia and Sweden,.

As much as possible the references are linked to a specific provision of the ESC. Nevertheless, there are still important overlaps because the respective UN and ILO Committees had sometimes to deal with a number of issues at the same time, thus making it difficult to separate them according to the ESC provisions. In so far as findings were easily separable, they were nevertheless attributed to the respective ESC provision.

UN

Committee on Economic, Social and Cultural Rights (CESCR)

- The CESCR's 'Concluding Observations' refer mainly to Articles 3, 6, 7 and 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).
- Each observation includes the CESCR's concerns and its respective recommendations (as in the original version, recommendations are in **bold**).
- Generally speaking, the most relevant source for the interpretation of Articles 2 and 5 of the ESC will be the 'General comment' No. 23 on Article 7 ICESCR⁹.

Other Committees

For reasons of practicality and volume, the following compilation does not include sources/references from other UN Committees like the Human Rights Committee (CCPR) on the civil rights of trade unions and their members for the purpose of Article 5 ESC or the Committee on the Elimination of Discrimination against Women (CEDAW) on the right to equal pay for the purpose of Article 4 para. 3 ESC.¹⁰ They might nevertheless provide also important information about current problems in the States concerned¹¹.

ILO

Committee on the Application of Conventions and Recommendations (CEACR)

- The following references contain 'observations' as well as 'direct requests'.
- For each observation/direct request reference is only made to those where the CEACR requests further action (legislative change) and/or further information.
- As for the information relating to Article 4§3 ESC (equal pay for equal work), the references are limited to references to the CEACR observations and direct requests related to the Equal Remuneration Convention, 1951 (No. 100) being the most directly related Convention (and furthermore limited to observations/direct requests as they were published/adopted in 2021-2022). References to the other relevant/related Discrimination in Employment and Occupation Convention (No. 111) are not included but can be consulted [here](#).¹²

⁹ General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), 7 April 2016, E/C.12/GC/23. For the collective rights enshrined in Article 8 ICESCR a 'General comment' is still missing. That is why the references to the 'Concluding Observations' are of specific importance in respect of Articles 5 and 6 ESC.

¹⁰ See below also on ILO Conventions No. 100 and 111.

¹¹ The case be consulted at the UN Treaty Bodies Database available at https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx.

¹² This is particularly important for those countries which have only ratified Convention No. 111.

Committee on Freedom of Association (CFA)

The CFA decisions referred to below do not include those cases in which the CFA invited the Governing Body to consider that the case does not call for further examination.

CoE

The compilation concentrates on cases decided by the ECtHR but includes also pending cases, i.e. communicated cases to the Governments concerned. The inclusion of the pending cases is aimed to provide the ECSR with information about problems which are to be considered as important because they have been examined by the highest national judicial instances (admissibility condition for the access to the ECtHR: ‘exhaustion of domestic remedies’). All references mainly relate to Article 11 ECHR (possibly in combination with Article 10 on Freedom of expression and/or Article 14 on discrimination) corresponding with Articles 5 and 6 ESC.

General scope – vulnerable groups of workers

Under Article 7 ICESCR, the CESCR has dealt with several issues which are not directly related to a specific provision of the ESC. Therefore, they are referred to here as a problem of the general scope of protection guaranteed by the ESC. The ECSR might wish to take these assessments into account when dealing with specific situations in the countries concerned.

Germany

UN (2018)

The Committee is concerned that caregivers are required to work excessive hours without regular rest and are vulnerable to exploitation, that labour inspections are insufficient and that these workers have access to limited and fragmented complaint mechanisms (art. 7).

The Committee recommends that the State party ensure that domestic workers, who are mainly employed as caregivers, enjoy the same conditions as other workers as regards remuneration, rest and leisure, limitation of working hours and protection against unfair dismissal.

Serbia

UN (2022)

The Committee is concerned about the narrow definition of “employed persons” in the Labour Law, which has excluded the large number of workers in the informal economy and non-traditional forms of employment from labour and social protection (art. 7).

The Committee recommends that the State party bring the definition of “employed persons” in the Labour Law into line with article 7 of the Covenant and international labour standards and ensure that all workers, regardless of their sectors, industries or forms of employment, are equally protected under the Labour Law and the related labour regulations.

Article 2 - Right to just conditions of work

Paragraph 1

General considerations

The ETUC is of the opinion that there is a need for a new reflection on the reasonableness of maximum daily and weekly working hours by the ECSR. It should base its (new) case law on the principles developed in the first international labour standards, nearly a century ago, namely ILO Convention No 1, 1919, providing for eight hours per day and 48 hours per week as normal limits. Moreover, specific attention should be attached to the 'dynamic' nature of the provision requiring continuous efforts for the reduction of working time. Furthermore, flexibility should not lead to any weakening of protection. Instead, workers' interests with regard to flexibility (for example in cases of family responsibilities) should be taken into account. Finally, effective safeguards are needed, in particular in a period in which working life is being subjected to 'digitalisation'.¹³

Belgium

UN (2020)

The Committee notes the measures taken by the State party in relation to domestic work, particularly the inclusion of domestic workers in the coverage provided by the 2014 social security legislation. However, it remains concerned at the lack of specific measures for the protection of domestic work (art. 7).

The Committee recommends that the State party ensure that domestic workers, who are mainly employed to provide personal care and support services, enjoy the same conditions as other workers as regards remuneration, rest and leisure, limitation of working hours and protection against unfair dismissal.

Germany

UN (2018)

The Committee is concerned that caregivers are required to work excessive hours without regular rest and are vulnerable to exploitation, that labour inspections are insufficient and that these workers have access to limited and fragmented complaint mechanisms (art. 7).

The Committee recommends that the State party ensure that domestic workers, who are mainly employed as caregivers, enjoy the same conditions as other workers as regards remuneration, rest and leisure, limitation of working hours and protection against unfair dismissal.

Luxembourg

ILO - Hours of Work (Industry) Convention, 1919 (No. 1)

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 5(1) of Convention No. 1 and Article 6 of Convention No. 30. Averaging of hours. The Committee requests the Government to indicate the circumstances in which the working time arrangements envisaged in sections L.211-6 and L.211-9 of the Labour Code [authorizing the distribution of hours of work over reference periods of up to four and 12 months respectively] can be applied.

¹³ See K Lörcher, Article 2 – The Right to Just Conditions of Work in: N Bruun, K Lörcher, I Schömann and S Clauwaert (eds.), *The European Social Charter and the Employment Relation*, (Oxford, Hart Publishing), 2017, 52, 166, 174.

Republic of Moldova

ILO - Forty-Hour Week Convention, 1935 (No. 47)

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 1 of the Convention. The principle of the 40-hour week. Averaging of hours of work. Overtime. Recalling that calculating hours of work as an average over a reference period of up to one year allows for too many exceptions to normal hours of work and can result in highly variable working hours over long periods, long working days and the absence of compensation (2018 General Survey on working time instruments, paragraph 68), the Committee requests the Government to review section 99 in this regard and to provide information on any progress made in this respect. On overtime, Recalling that these provisions authorize practices that would possibly lead to unreasonably long hours of work, in direct contradiction to the principle of progressive reduction of hours of work, the Committee requests the Government to take the measures necessary to ensure that the principle of a 40-hour week provided for by the Convention is fully applied both in law and in practice.

Paragraph 3

North Macedonia

ILO - Holidays with Pay Convention (Revised), 1970 (No. 132)

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Repetition : Article 7 of the Convention. Holiday pay. The Committee notes that the Labour Relations Law does not seem to contain any provision expressly requiring the payment of holiday pay in advance of the holiday. The Committee requests the Government to specify how effect is given to this Article of the Convention.
- Repetition: Articles 11 and 12. Compensation in lieu of unused leave upon termination of employment – Prohibition to relinquish or forgo the right to holiday.

Republic of Moldova

ILO - Holidays with Pay Convention (Revised), 1970 (No. 132)

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 4(1) of the Convention. Proportionate annual leave in case of insufficient length of service. The Committee once again requests the Government to indicate any measures adopted or envisaged to give effect to this provision of the Convention.

Paragraph 5

North Macedonia

ILO - Weekly Rest (Industry) Convention, 1921 (No. 14)

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Repetition (!) Articles 4 and 5 of the Convention n° 14. Total and partial exceptions – Compensatory rest. The Committee requests the Government to refer to the comments made

under Articles 6, 7 and 8 of the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106).

Article 4 – Fair remuneration

Paragraph 1

Azerbaijan

UN: Minimum wage (2021)

While noting the information provided by the State party delegation indicating that the minimum wage has been increased in 2019 to surpass the minimum subsistence level, the Committee regrets the lack of information on whether the minimum wage enables workers and their families to enjoy a decent living, and on measures taken to enforce the minimum wage in all sectors of the economy (art. 7).

The Committee recommends that the State party take measures to ensure that the national minimum wage applies to all workers in all sectors and industries. It also recommends that the State party, in consultation with its social partners, periodically review the minimum wage in order to index it to the cost of living, and ensure that it enables workers and their families to make a decent living.

Germany

UN: Minimum wage (2018)

The Committee is concerned that the State party does not have reliable data on compliance with the minimum wage and that a significant number of workers are reportedly paid below the minimum wage (art. 7).

The Committee recommends that the State party intensify its efforts to ensure that all workers are paid at least the national minimum wage and that the minimum wage is set at a level sufficient to provide workers and their families with an adequate standard of living. The Committee also recommends that the State party intensify its efforts to strengthen the enforcement of the minimum wage.

Serbia (2022)

UN: Minimum wage (2022)

The Committee is concerned about the inadequate amount of the minimum wage, which is lower than the minimum consumer basket, and regrets the absence of information on the enforcement of the minimum wage (art. 7).

The Committee recommends that the State party: (a) Raise the minimum wage and regularly adjust it to the cost of living so as to ensure a decent living for workers and their families; (b) Ensure that the minimum wage applies to all workers in all sectors and in all forms of employment; (c) Ensure full compliance with the minimum wage;

ILO - Convention n° 131 Minimum Wage Fixing (1970)

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 3 of the Convention. Criteria for the determination of the minimum wage. In this context, the Committee invites the Government to consider developing, in full consultation with the social partners, a methodology to put the various criteria for determining the minimum wage into relation to each other. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance.
- Article 5. Enforcement. The Committee requests the Government to provide information on the application of these provisions in practice, including the number of violations detected and the sanctions imposed.

Slovakia

UN: Minimum wage (2019)

The Committee remains concerned about labour rights violations, including non-payment of wages and wage discrimination. The Committee is concerned that there are workers that are paid less than the minimum wage, including among low-skilled and migrant workers, and women (arts. 2, 3 and 7).

The Committee recommends that the State party: (a) Ensure full geographical and sectoral coverage of the labour inspectorate and provide adequate financial and technical resources to ensure continuing increases in inspections; (b) Provide effective and accessible remedies to all victims of labour rights violations, ensuring compensation and guarantee of non-repetition; (c) Continue efforts to regulate and supervise the activities of employment agencies; (d) Continue to ensure the realistic calculation of and increases in the minimum wage; (e) Remove all disincentives to unionization and ensure full respect for all workers' rights in this regard.¹⁴

Paragraph 3

Albania

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Articles 1 and 2 of the Convention. Addressing the gender pay gap and its underlying causes. Noting that the gender pay gap is persistent and particularly high in certain sectors, the Committee requests the Government to provide detailed information on the measures adopted, in cooperation with workers' and employers' organizations, to specifically address horizontal and vertical occupational gender segregation and to increase the labour force participation rate of women in the formal labour market. Lastly, the Committee reiterates its request to the Government to provide up-to-date statistical data, disaggregated by sex, on the distribution of workers in the different sectors of the economy, by occupational category, both in the public and private sectors, specifying their corresponding remuneration levels, and data on the gender pay gap in different sectors of the economy.
- Articles 1(b) and 2. Definition of work of equal value. Legislation. In view of the absence of information provided in this regard, the Committee reiterates its request to Government to indicate whether any measures are envisaged to harmonize the different definitions of work of equal value provided for under the Gender Equality Law and the Labour Code. The Committee also asks the Government to take measures to continue raising awareness among both workers and employers and their respective organizations, as well as judges and other officials

¹⁴ Also relevant for Article 5.

responsible for ensuring the implementation of the principle set out in the Convention, and to resume the awareness-raising activities of the SILSS on equal pay for men and women for work of equal value that had been interrupted due to the COVID-19 pandemic. Lastly, the Committee asks the Government to continue to provide information on the number, nature and outcome of cases of pay discrimination, in both the private and public sectors, dealt with by the competent authorities.

- National strategies and action plans. The Committee asks the Government to provide updated information on the elaboration and adoption of the National Strategy for Gender Equality 2021-2030, in particular on the measures envisaged with respect to equal remuneration for men and women, as well as on any other strategy or plan adopted aiming at advancing the application in practice of the principle of the Convention. The Committee also asks the Government to provide detailed information on the implementation and results of these policies relating to equal remuneration for work of equal value, including specific information on the monitoring and review mechanisms in place to measure their impact.
- Article 3. Objective job evaluation. The Committee requests the Government to clarify whether the criteria used for the classification of job positions in the public sector are objective factors, such as skills/qualifications, efforts, responsibilities and working conditions and to clarify how the criteria of “importance of the position in relation to the institution’s mission” referred to in the Government’s report is being measured. The Committee further requests the Government to explain how it ensures that these criteria are free from gender bias. Lastly, the Committee asks the Government to provide information on any measure adopted to promote the use of objective job evaluation methods in the private sector.

Belgium

UN: Equal pay for work of equal value (2020)

(art. 3) The Committee recommends that the State party intensify its efforts to achieve substantive equality between men and women and, in particular, that it:

(a) Effectively implement the Act of 22 April 2012 aimed at reducing the wage gap between men and women, and its amendment of 12 July 2013

Bulgaria

UN: Equal pay for work of equal value (2019)

The Committee is concerned about the lower level of participation of women in the labour market, the horizontal and vertical occupational segregation between men and women and the gender pay gap that exists in the State party, which lead to income inequality and lower pension benefits for women. (arts. 3, 6 and 7).

The Committee recommends that the State party take measures to reduce the gender pay gap and to promote equal pay for work of equal value.

Denmark

UN: Equal pay for work of equal value (2019)

The Committee notes with concern that the gender wage gap is wider among high earners in the State party. The Committee is also concerned about the significant gender wage gap in Greenland and regrets the lack of information on the gender wage gap in the Faroe Islands (arts. 3 and 7).

The Committee recommends that specific measures, such as transparency of remuneration and cross-sectoral valuation of jobs, be implemented in the State party and its self-governing territories to ensure the effective realization of the right to equal pay for work of equal value.

Estonia

UN: Equal pay for work of equal value (2019)

The Committee is concerned that the gender pay gap remains high, and has a lifelong adverse impact on the enjoyment of the Covenant rights by women, particularly with regard to rights to social security and to an adequate standard of living (arts. 3, 7, 9 and 11).

The Committee recommends that the principle of equal pay for work of equal value be effectively enforced through compulsory pay disclosure and labour inspections.

Finland

UN: Equal pay for work of equal value (2021)

The Committee is concerned at the slow pace at which the gender pay gap is narrowing in the State party. It also notes that while the preparation of the Equal Pay Programme has been completed, full implementation of the Programme without binding measures will not significantly accelerate the reduction of the gender wage gap (arts. 3 and 7).

The Committee recommends that the State party establish time-bound targets for closing the gender pay gap. It also recommends that the State party: (a) Put into place an institutional mechanism for the promotion of equal pay and the monitoring of progress; (b) Legislate on remuneration transparency, with a view to making it easier to challenge unequal pay; (c) Conduct surveys of rates of remuneration across organizations, enterprises and professions with a view to identifying under remunerated functions and re-evaluating applicable rates;

Georgia

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

[Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Articles 1 and 2 of the Convention. Legislation. Recalling that the Convention has been ratified in 1993, the Committee once again urges the Government to amend the labour legislation, in cooperation with the social partners and the Council for Gender Equality, in order to give full legislative expression to the principle of “equal remuneration for men and women for work of equal value”, with a view to ensuring the full and effective implementation of the Convention without delay. Noting the Government’s reiterated statement that it intends to submit legislative proposals to the Parliament implementing Directive 2006/54/EC of 5 July 2006, the Committee requests the Government to provide information on any progress made in this regard. Furthermore, regarding the public sector, the Committee once again urges the Government to take the necessary steps to amend section 57(1) of the Law on the Public Service (2015) to capture the concept of “work of equal value” so as to ensure that public officials covered by the Law are entitled not only to equal remuneration for equal work, but also for work that is entirely different but nonetheless of equal value. The Government is requested to provide information on the progress achieved in this regard.
- Article 2. Measures to address the gender pay gap and promote equal remuneration. Given the persisting horizontal and vertical segregation prevailing in the country, the Committee asks the

Government to step up its efforts to identify and properly address the underlying causes of inequalities in remuneration, such as gender discrimination, gender stereotypes, and occupational segregation and to promote women's access to a wider range of job opportunities at all levels, including top management positions and higher paying jobs. Noting the lack of information provided in this regard, the Committee reiterates its request that the Government provide information on the specific measures taken or envisaged in the framework of the State Concept on Gender Equality and the Gender Equality Council Action Plan 2018–20 directly aimed at reducing the gender pay gap. Such measures may include, for example, undertaking sensitization programmes and awareness-raising activities to overcome traditional stereotypes regarding the role of women in society or adopting measures on shared parental leave, and affordable and available childcare services. The Committee further requests the Government to provide information on any awareness-raising activities undertaken to promote equal remuneration for men and women for work of equal value, including with respect to bonuses, premiums and other additional wage allowances. Finally, the Government is requested to continue to provide statistical data on men's and women's monthly and hourly wages and additional allowances, according to economic sector, as well as data on the number of men and women employed in these sectors.

- Enforcement. The Committee asks the Government to provide information on the activities of the labour inspectorate and its findings with regard to the application in practice of equal remuneration for men and women. The Committee also asks the Government to examine whether the applicable substantive and procedural provisions, in practice, allow claims to be brought successfully. The Committee further asks the Government to take concrete steps to ensure the effective enforcement of the principle of the Convention in practice, for example through training activities of the labour inspectorate, as well as of judges and other public officials, related specifically to the principle of equal remuneration between men and women for work of equal value. The Committee also asks the Government to provide information on: (i) the content and duration of any training for the 47 judges that addressed the language and application in practice of the principle of equal remuneration for men and women; (ii) decisions handed down by the courts or other competent bodies with regard to the application of the principle of the Convention; and (iii) any cases regarding unequal remuneration handled by the Office of the Public Defender.
- The Committee is [raising other matters in a request addressed directly to the Government](#).

Germany

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

[Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 2 of the Convention. Wage transparency. The Committee asks the Government to continue to provide information on the implementation of the Transparency of Remuneration Act, including any assessment made of the level of compliance with the statutory reporting requirements on gender equality and equal pay at the company level, and any actions taken to address gender wage gaps revealed, and the impact thereof. It also asks the Government to provide information on: (i) any measures taken to enhance the implementation of the Act, including by raising awareness of workers, employers and their respective organizations about its provisions and remedies available; (ii) any measures envisaged to overcome obstacles to its effectiveness that may have been identified by the assessments carried out or the social partners; as well as (iii) the number of companies of more than 200 employees and of more

than 500 employees in the country, as well as the proportion of the workforce covered by these undertakings.

- Articles 2 and 3. Assessing and addressing the gender pay gap. The Committee urges the Government to strengthen its efforts to eliminate the gender pay gap, including by addressing the differences in remuneration that may be due to gender discrimination. It further asks the Government to provide: (i) information on the proactive measures implemented to that end, both in the public and private sectors, including by enhancing women's access to jobs with career prospects and higher pay; (ii) information on any assessment made of the impact of such measures, including of the results of the "Strengthen enterprises, promote pay equality" programme; as well as (iii) statistical information on the earnings of men and women, disaggregated by economic activity and occupation, both in the public and private sectors.
- The Committee is [raising other matters in a request addressed directly to the Government](#).

Greece

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

[Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 2 of the Convention. Gender pay gap. In light of the persistent gender pay gap and occupational gender segregation of the labour market, the Committee asks the Government to provide information on: (i) the application of Law No. 4706/2020 and its impact on the presence of women on Boards of Directors; and (ii) any other measures taken, including in collaboration with employers' and workers' organizations, to raise awareness, make assessments, and promote and enforce the application of the Convention. It asks the Government to provide information on the proactive measures implemented, including in the framework of the National Action Plan for Gender Equality for 2016–20 and for 2021–2025, to address the gender pay gap by identifying and addressing its underlying causes, such as vertical and horizontal occupational gender segregation and stereotypes regarding women's professional aspirations, preferences and capabilities, and their role in the family, and by promoting women's access to a wider range of jobs with career prospects and higher pay. Recalling that regularly collecting, analysing and disseminating information is important for addressing appropriately unequal pay, determining if measures taken are having a positive impact on the actual situation and the underlying causes of the gender pay gap, the Committee requests the Government to take all necessary measures to provide updated statistical information on the gender pay gaps, both in the public and private sectors.
- The Committee is [raising other matters in a request addressed directly to the Government](#) which reiterates the content of its previous request adopted in 2019.

Iceland

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

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Articles 1 and 2 of the Convention. Gender pay gap. The Committee encourages the Government to continue taking measures to develop various tools and systems to address and monitor the application of Act No. 10/2008 on Equal Status and Equal Rights of Women and Men, as well as the Plan of Action on Gender Equality regarding Wages (2012–16). The Committee asks the Government to provide information on the results achieved in terms of

addressing the gender pay gap following the development of Equal Pay Standard IST 85:2012 and a certification system on equal pay.

- Work of equal value and scope of comparison. Noting that the report is silent on this point, the Committee once again recalls that, not only this Convention, but also European Directive 2006/54/EC provides that the principle of equal pay is not limited to situations in which men and women work for the same employer and it asks the Government to provide a plan for ensuring that the principle of the Convention is applied beyond the same employer, particularly in sectors and enterprises predominantly employing women.
- Article 3. Objective job evaluation. Recalling that some municipalities use job evaluation in wage determination and that the Plan of Action on Gender Equality regarding Wages (2012–16) encouraged studies on job evaluations, the Committee once again asks the Government to provide information on any studies carried out or exercises undertaken to assess the impact of job evaluation in reducing the gender pay gap. It also asks the Government to provide information on any plans or studies envisaged to consider how objective job evaluation methodology can be better used to reduce the existing gender pay gap.
- Enforcement. The Committee asks the Government to provide information on any decisions or rulings relating to the issue of equal remuneration by the courts or the Gender Equality Complaints Committee pursuant to Act No. 10/2008.

Ireland

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

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 2 of the Convention. Measures to address the gender pay gap. The Committee asks the Government to provide information on the results obtained through: (i) the measures adopted under the National Strategy for Women and Girls 2017-20; and (ii) the adoption of the Gender Pay Gap Information Bill and its implementation.
- Occupational segregation. Minimum wages. The Committee asks the Government to provide information on the proposals made by the Citizens Assembly on gender equality and on their implementation in practice. Noting the absence of information in this regard, the Committee once again asks the Government to provide information on the steps taken to improve the enforcement of minimum wages, and the impact of such measures on the gender pay gap.
- Article 3. Equality reviews and objective job evaluation. In light of the above, the Committee requests the Government to provide information on the status of the draft Code of Practice on Equal Pay Enforcement and judicial decisions.. It once again asks the Government to provide information on any other measures taken, in cooperation with the social partners, to promote the use of objective job evaluation methods free from gender bias in both their design and implementation.
- Enforcement and judicial decisions. The Committee asks the Government to continue providing detailed information on the number and outcome of equal pay complaints. It also asks the Government to share any information that could explain the high number of complaints withdrawn before mediation or adjudication and the low number of complaints upheld by the Workplace Relations Commission.

Italy

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

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Articles 1 and 2 of the Convention. Gender pay gap. The Committee welcomes the range of measures adopted by the Government to reduce the gender pay gap and asks it to supply, once available, updated statistical information, disaggregated by sex, on the distribution of men and women in the different sectors and occupations and their corresponding earnings, in the public and private sectors, as well as the information on gender wage differentials collected by the Equality Counsellor under section 46 of the Code of Equal Opportunities. The Committee also asks the Government to continue providing information on the measures taken to raise awareness of and promote the application of the principle of equal remuneration for men and women for work of equal value, including any measures adopted in collaboration with social partners and any action promoted by the Forum on Gender Equality, and their impact on reducing the gender pay gap.
- Occupational gender segregation. While noting the information provided by the Government, the Committee asks it to report on the results achieved in addressing occupational gender segregation and reducing the gender pay gap since the adoption of the incentives established by the Inter-ministerial Decree of 13 October 2015, including information on the measures adopted to promote the recruitment of men in sectors and occupations where they are under-represented.
- Public administration. The Committee asks the Government to provide information on the final evaluation of the Plan for Positive Actions, its impact on reducing the gender pay gap in the public administration and any lessons learnt for future action. The Committee also asks the Government to provide information on the implementation of Directive No. 2/2019, and particularly on any periodic monitoring and assessment made to identify its impact on the application of the principle of the Convention.
- Article 3. Objective job evaluation. Recalling that women may be predominately employed in certain specific sectors and occupations, the Committee asks the Government to indicate how it is ensured that the systems of job classification currently used to guide the determination of remuneration levels are free from gender bias and guarantee in practice the application of the principle of equal remuneration for men and women for work of equal value. The Committee also once again asks the Government to provide information on any action taken or envisaged to promote, in cooperation with the social partners, the development and use of objective job evaluation methods in both the private and the public sectors.
- Enforcement. The Committee asks the Government to provide information on any measures taken or envisaged to ensure that the labour inspectorate is in a position to report specifically on cases of violation of the principle of equal remuneration for men and women for work of equal value and the sanctions imposed. It also asks the Government to enhance the capacity of all other competent authorities to identify and address cases of violation of the principle of the Convention and to provide information on any such cases dealt with by national and local counsellors and/or referred by them to the labour inspectorate.

Latvia

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

[Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Articles 1 and 2 of the Convention. Assessing and addressing the gender pay gap. The Committee urges the Government to provide information on the concrete measures and activities undertaken to address the gender pay gap, both in the public and private sectors, in particular by addressing occupational gender segregation and promoting women's access to jobs with career prospects and higher pay, including in the framework of the Plan for the

Promotion of Equal Rights and Opportunities for Women and Men for 2018–2020 and the Sustainability Index. In that regard, it asks the Government to provide information on the content of the study undertaken by the Ministry of Welfare or any other authorities concerning the extent and causes of wage differentials between men and women, as well as on any recommendations made to address it. The Committee asks the Government to continue to provide statistical data on the earnings of men and women, disaggregated by economic activity and occupation, both in the public and private sectors.

- The Committee is [raising other matters in a request addressed directly to the Government](#).

Lithuania

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

[Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Articles 1 and 2 of the Convention. Assessing and addressing the gender pay gap. Welcoming the recent downward trend observed in the gender pay gap, the Committee urges the Government to pursue its efforts and to provide information on the concrete measures and activities undertaken (in the framework of the Action Plan 2018-2021 for the Implementation of the National Programme on Equal Opportunities for Women and Men 2015-2021 or otherwise) to address the gender pay gap, both in the public and private sectors, in particular by addressing occupational gender segregation and promoting women's access to jobs with career prospects and higher pay. Recalling that section 23(2) of the Labour Code provides that an employer who has more than 20 employees on average must submit to the work council and the trade union, at least once a year, updated information, disaggregated by sex and occupation, on the average pay of employees (except for managerial positions), the Committee asks the Government to provide statistical information on the earnings of men and women, disaggregated by economic activity and occupation, both in the public and private sectors.
- Articles 3 and 4. Objective job evaluation. Cooperation with workers' and employers' organizations. In light of the persistent gender pay gap, the Committee urges the Government to provide information on the application of sections 26(2)(3) and 140(3) and (5) of the Labour Code in practice, including by indicating how it is ensured that remuneration systems are based on objective job evaluation methods that are free from gender bias. It further asks the Government to provide information on: (i) any measures taken or envisaged to promote wage transparency; and (ii) any steps taken, in cooperation with the social partners, to promote the principle of the Convention in branch, territorial and enterprise negotiations, and ensure that work in sectors and occupations in which women are predominantly employed is not being undervalued. The Committee again asks the Government to provide relevant extracts of collective agreements containing provisions that reflect the principle of the Convention.
- The Committee is [raising other matters in a request addressed directly to the Government](#).

Luxembourg

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

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Articles 1 and 2 of the Convention. Assessment and reduction of the gender pay gap. The Committee therefore asks the Government to provide information on the measures taken to address the gender pay gap and its underlying causes, such as vertical and horizontal occupational gender segregation, including by providing examples of the specific action

implemented in the framework of the Affirmative Action Programme, and on its impact on reducing gender pay gaps, both in the public and private sectors. It asks the Government to provide extracts of any available study or assessment report undertaken in that regard, in particular by the Ministry of Equality for Women and Men. The Committee further asks the Government to continue providing statistical data on the gender pay gap, disaggregated by economic activity and occupation, in both the public and private sectors.

- Articles 2 and 4. Collective agreements and collaboration with the social partners. The Committee therefore asks the Government to provide information on: (i) the measures taken to ensure that the method and criteria for the evaluation and classification of tasks set out in collective agreements are objective and do not result in the undervaluation of jobs traditionally held by women in comparison with those traditionally held by men; and (ii) the extent to which the obligation to include clauses in collective agreements on the methods of application of the principle of equal remuneration for work of equal value is implemented in practice. The Committee asks the Government to continue providing extracts of collective agreements of which the terms reflect the principle of the Convention.
- Article 3. Objective job evaluation. The Committee asks the Government to continue: (i) taking steps to promote the use of the Logib-Lux evaluation tool by enterprises and workers' and employers' organizations, in both the public and private sectors, with a view to reducing pay inequalities and applying the principle of the Convention; and (ii) providing information on the number of the enterprises that have used the pay evaluation tool, including in the framework of the Affirmative Action Programme, as well as specific information on the results of the evaluations undertaken and any adjustments made. In this regard, the Committee asks the Government to provide specific examples of possible improvements that have been suggested to enterprises and of good practices that have been implemented to ensure equal remuneration for men and women for work of equal value.
- Enforcement and awareness-raising. The Committee asks the Government to continue providing information on: (i) the measures implemented to raise awareness among workers, employers and their respective organizations on the principle of the Convention and the penalties provided for in the Labour Code for non-observance; (ii) any measures taken to strengthen the means of control of the ITM with regard to pay inequality; and (iii) the number of cases or complaints on pay inequality dealt with by the Inspectorate of Labour and Mines, the courts or any other competent authorities, the penalties imposed and remedies granted.

Malta

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

[Observation \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Legislative developments. The Committee reiterates its request to the Government to provide specific information on the practical application of sections 3(A)(1) and 3(A)(2) of the Equal Treatment in Employment Regulations, including by providing concrete examples on the manner in which the terms “work of equal value” and “remuneration” have been interpreted in practice, including by the Industrial Tribunal. It asks the Government to provide a copy of any administrative or judicial decisions concerning equal remuneration for men and women for work of equal value, as well as on any activities undertaken to raise public awareness of the principle of equal remuneration for men and women for work of equal value. The Committee trusts that the Government will seize every opportunity to ensure that any new legislation will explicitly define and give full expression to the principle of equal remuneration between men and women for work of equal value, in particular as regards the manner in which “work of

equal value” is determined and what is considered to be included as “remuneration”, and asks the Government to provide information on the status of the Equality Bill and the Human Rights and Equality Commission Bill, as well as a copy of both pieces of legislation once adopted.

- Articles 1 and 2 of the Convention. Addressing the gender pay gap. In light of the increasing gender pay gap, the Committee urges the Government to strengthen its efforts to take proactive measures, in collaboration with employers’ and workers’ organizations and the NCPE or any other relevant institution, to raise public awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value. It asks the Government to provide information on the specific measures taken to reduce and address the gender pay gap, including by addressing occupational gender segregation and promoting women’s access to high-level positions and higher-paid jobs and by encouraging more girls to take up Science, Technology, Engineering and Mathematics (STEM) subjects which can lead to better paid and more secure jobs. It asks the Government to continue to provide updated statistical information on the earnings of men and women in the public and private sectors, disaggregated by economic activity and occupation.
- Article 3. Objective job evaluation. The Committee again asks the Government to indicate the measures taken to promote the development and use of job evaluation methods based on objective criteria in the private sector, in collaboration with employers’ and workers’ organizations, as well as in the public sector. It asks the Government to provide information on any progress made in this regard.
- The Committee is [raising other matters in a request addressed directly to the Government](#).

Montenegro

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

[Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 1(b) of the Convention. Work of equal value. Legislation. The Committee urges the Government to take the necessary steps to amend the Labour Law of 2020 in order to give full legislative expression to the principle of the Convention, and to ensure that comparison between the value of jobs or occupations can involve different employers and also different types of skills, responsibilities or working conditions that nevertheless are of equal value. It also requests the Government to provide information on all measures taken to this end.
- The Committee is [raising other matters in a request addressed directly to the Government](#).

North Macedonia

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

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 1 of the Convention. Equal remuneration for work of equal value. Legislation. The Committee requests the Government to provide information on any progress achieved in the adoption of amendments to the law implementing the principle of the Convention. Please provide a copy of the new Law on Labour Relations once adopted.
- Occupational gender segregation and gender remuneration gap. With a view to reducing inequalities in remuneration that exist between men and women in the labour market, the Committee requests the Government to continue its efforts: (i) to facilitate the access of women to the labour market; and (ii) to improve their access to a wider range of job opportunities at all levels, including sectors in which they are currently absent or under-

represented. The Committee requests the Government to provide information regarding any actions taken in this regard.

- Article 4. Cooperation with employers and workers' organizations. Noting that the Government does not provide information in this regard, the Committee requests the Government to provide details on its cooperation with the social partners to ensure real progress in the achievement of the Convention's objective of equal remuneration for men and women for work of equal value.
- Application in practice. The Committee requests the Government to provide information on any awareness raising activities on the application in practice of the principle of equal remuneration for men and women for work of equal value, in particular those undertaken by the public authorities.

Republic of Moldova

UN: Equal pay for work of equal value (2017)

The Committee is concerned at its persistence [of the gender pay gap], which leads to a wider gender gap in social insurance benefits, such as pensions. It is also concerned at the absence of a legislative framework on the principle of equal pay for work of equal value (art. 7).

The Committee recommends that the State party adopt a legislative framework on the principle of equal pay for work of equal value and further reduce the gender pay gap.

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

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Articles 1 and 2 of the Convention. Gender wage gap and occupational segregation. The Committee asks the government to continue taking measures to reduce the gender pay gap, in particular regarding the gender pay gap due to occupational segregation. The Committee also asks the Government to continue providing information on workers' levels of remuneration across sectors and occupations.
- Article 1(a). Definition of remuneration. Legislation. The Committee therefore reiterates its request that the Government: (i) consider harmonizing the different terms used in the legislation, at the earliest opportunity, with a view to ensuring that the principle of equal pay for men and women for work of equal value covers all elements of remuneration as defined in Article 1(a) of the Convention; and (ii) clarifies how section 3(1)(b) of Law No.270 of 2018 is applied in practice.
- Article 2(a). Work of equal value. The Committee therefore requests once again the Government to revise section 7(2)(d) of Law No. 121 of 2012 with a view to harmonising it with other pieces of legislation which refer to "work of equal value" and thus avoid any legal uncertainty.
- Article 2. Determination of wages and collective agreements. The Committee therefore reiterates its request that the Government provides information on how collective agreements setting the conditions of payment in different branches of the economy apply the principle of the Convention. It also asks the Government to provide information on measures taken to strengthen the capacity of social partners, as envisaged in the Action Plan for Gender Equality 2017-2021.
- Public sector. The Committee asks for information on how section 3(1)(b) of Law No.270 of 2018 and the principle of the Convention of equal remuneration for men and women for work of equal value are taken into account in the unitary wage system in the budgetary sector.

- Article 3. Objective job evaluation. The Committee asks the Government to clarify how tariff and non-tariff payroll systems provided by the Labour Code ensure the application of objective job evaluation methods, including beyond the same establishment or enterprise, with a view to effectively applying the principle of equal remuneration for men and women for work of equal value. The Committee reminds the Government that it may avail itself of technical assistance from the Office.
- Enforcement. In the framework of the Strategy for ensuring equality between women and men in the Republic of Moldova, 2017-2021, the Committee requests the Government: (i) to indicate any steps taken or envisaged to raise awareness regarding the principle of equal remuneration for men and women for work of equal value (including the relevant legislation and complaints procedures), among workers and employers and their organizations; and (ii) to provide information on the number, nature and outcome of any cases in relation to the principle of the Convention.

Poland

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Articles 1 to 4 of the Convention. Gender pay gap and promotion of equal remuneration. The Committee asks the Government to provide information on the steps taken regarding: (i) the implementation of the National Action Programme for Equal Treatment 2021-2030 and its impact on closing the gender pay gap; (ii) the dissemination and promotion of the use of the application developed to measure wage equality; (iii) the implementation of the Project “A good climate for good quality workplaces”, in particular with respect to pay transparency; and (iv) the policy recommendations developed by the Government. The Committee also asks the Government to continue to provide information on the evolution of the gender wage gap, in particular information on the impact of the Covid-19 epidemic in this regard and the measures taken to remedy any negative impact noted. Lastly, emphasizing the importance of collecting appropriate data in determining the nature, extent and causes of unequal remuneration, to set priorities and design appropriate measures, to monitor and evaluate the impact of such measures, and to make the necessary adjustments, the Committee requests the Government to monitor the impact of programs in place and make adjustments towards the reduction of the gender pay gap.
- Articles 1(b) and 2. Equal remuneration for men and women for work of equal value and scope of comparison. Legislation. The Committee therefore asks the Government to provide information on any legislative development in relation to ensuring a broad scope of comparison between jobs to determine whether they are of equal value, such as ensuring that the application of the principle is not limited to the “same enterprise”. More generally, the Committee asks the Government to provide information on any legislative development on the application of the principle of equal remuneration for men and women for work of equal value.
- Article 3. Objective job evaluation. The Committee asks the Government to provide information on any job evaluation exercise conducted in the public sector, including on the advancement of the survey planned to be conducted in the ministries in 2022, with detailed information on the method and criteria used to compare different jobs to determine whether they are of equal value. It also asks the Government to provide further information on the objective job evaluation methods used in the private sector, including detailed information on the application developed by the MSFP with specifics on the criteria and the measures used to compare jobs in the context of this application.

- Enforcement. Taking note of this information, the Committee asks the Government to continue to provide information on the awareness-raising activities conducted by the labour inspectors among employers and workers and the number of cases of pay inequality between men and women addressed by the labour inspectorates, the courts or any other competent authorities, and the outcomes of these cases, including: (i) the reasons given for finding pay inequality between men and women to be unjustified, or justified, in particular cases; and (ii) the nature of relief granted in cases where the inequality was unjustified (amount of back pay to individuals; any punitive damages awarded; any prospective injunctive relief for the affected positions etc.).

Portugal

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Articles 1 and 2 of the Convention. Equal pay for men and women and wage transparency. The Committee asks the Government to continue to provide information on the implementation of Law No. 60/2018 of 21 August 2018, in practice, including data on the level of compliance with the statutory implementation of transparent wage policies at the company level, information on sanctions imposed in cases of non-compliance, as well as on any actions taken to address gender wage gaps. It further asks the Government to provide information on the number of: (i) notifications made by the Working Conditions Authority requesting companies to elaborate an evaluation plan on wage disparities within the company and the appropriate corrective measures taken; and (ii) binding opinions compelling employers to eradicate gender pay discrimination practices formulated by the Commission for Equality in Labour and Employment (CITE). The Committee asks the Government to provide information on any measures taken to answer interpretative doubts regarding the provisions of Law No. 60/2018 that may remain among workers, employers and their respective organizations, with a view to ensuring a full understanding and implementation of the legislation.
- Article 1(b). Work of equal value. Scope of comparison. Noting that the Government did not provide information in that regard, the Committee again asks the Government to provide information on the measures taken or envisaged to ensure that, when assessing the equal value of jobs, comparisons can be made between jobs performed by men and women in different places or enterprises, or for different employers, in order to give full expression to the principle of the Convention. It asks the Government to provide information on the measures taken to raise awareness of labour inspectors, judges, prosecutors, and other relevant officials on the principle of the Convention, in particular concerning the scope of comparison, and to provide a copy of any relevant judicial or administrative decisions.
- Article 2(2)(c). Collective agreements. In light of the important role that can be played by collective agreements in the application of the principle The Committee asks the Government to provide information on any measures taken to promote, develop and implement practical approaches and methods for the objective evaluation of jobs, in both the public and private sectors, based on criteria that are free from gender bias, such as qualifications and skills, effort, responsibilities and conditions of work, with a view to ensure the effective implementation of the principle of the Convention. It again asks the Government to provide information on the number of job evaluation exercises carried out in the public or private sectors, in particular in the framework of Law No. 60/2018, as well as in enterprises that have reported pay differentials between men and women in accordance with Resolution No. 18/2014, indicating the criteria used and the measures taken to ensure that men and women receive equal

remuneration for work of equal value. e of equal remuneration for men and women for work of equal value, the Committee asks the Government to provide information on the measures taken, including in collaboration with the CITE, to raise the awareness of the social partners regarding the principle of the Convention, in order to encourage them to fully reflect it in collective agreements. It asks the Government to continue to provide information on the number of agreements on remuneration reached through collective bargaining, together with a summary of their provisions on wage determination and equal remuneration, as well as on any discriminatory clauses identified by the CITE, pursuant to section 479 of the Labour Code.

- Article 3. Objective job evaluation. The Committee asks the Government to provide information on any measures taken to promote, develop and implement practical approaches and methods for the objective evaluation of jobs, in both the public and private sectors, based on criteria that are free from gender bias, such as qualifications and skills, effort, responsibilities and conditions of work, with a view to ensure the effective implementation of the principle of the Convention. It again asks the Government to provide information on the number of job evaluation exercises carried out in the public or private sectors, in particular in the framework of Law No. 60/2018, as well as in enterprises that have reported pay differentials between men and women in accordance with Resolution No. 18/2014, indicating the criteria used and the measures taken to ensure that men and women receive equal remuneration for work of equal value.
- Awareness raising and enforcement. In light of the very low number of complaints and cases concerning inequality of remuneration officially registered despite the persistence of the gender pay gap and gender stereotypes, the Committee asks the Government to provide information on any proactive steps taken, including by the CITE, to raise public awareness of the relevant legislative provisions, the procedures and remedies available. It asks the Government to provide information on the number of pay inequality cases dealt with by the ACT, the CITE, the courts or any other competent authorities, as well as the sanctions imposed and remedies granted.

Romania

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Repetition
- Articles 1 and 2 of the Convention. Assessment of the gender pay gap and its underlying causes. The Committee requests the Government to continue its efforts to lower the gender pay gap by addressing its structural and underlying causes, such as vertical and horizontal occupational job segregation and gender stereotypes on the role of women in the family. It once again requests the Government to indicate the steps taken or envisaged to achieve this objective and all measures taken to combat effectively the gender pay gap in sectors where it is particularly wide. The Committee also reiterates its requests to the Government to provide statistics on the earnings of women and men in employment, by occupational group and economic sector, and any research available on the evolution of the gender pay gap and its underlying causes.
- Equal remuneration for work of equal value. Legislation. Public sector. Noting that the Government report is silent on this point, the Committee reiterates its request that the Government provide information on the application of section 3(c) of the Framework Act No. 284/2010 in practice, specifying the manner in which and by which public authority observance of this provision is ensured, as well as the procedure allowing public servants to assert their rights in the event of wage discrimination.

- Article 2. Application of the principle by means of collective agreements. Consequently, the Committee once again requests the Government to provide information on the measures taken, or envisaged, to encourage social partners to reflect in sectoral collective agreements the principle of equal remuneration for work of equal value, including any training and awareness-raising measures among workers' and employers' organizations on the concept of "work of equal value".
- Articles 2 and 3. Determination of remuneration and objective job evaluation in the public sector. Consequently, the Committee once again requests the Government to indicate whether the job evaluation methods and criteria selected to determine remuneration in the public sector are free from gender bias and do not result in undervaluing the jobs predominantly held by women in the public sector. The Committee also requests the Government to provide information on the access of male and female civil servants to additional benefits and to indicate how, and by which authority, complaints regarding discrimination in remuneration are addressed. Once again, please provide data on the distribution of men and women in the various posts and occupations of the public sector and their corresponding levels of earnings.
- Awareness raising and enforcement. The Committee therefore reiterates its requests to the Government to take measures to train labour inspectors, raise awareness of judges and promote and ensure application of the principle of equal remuneration for men and women for work of equal value through a range of proactive measures, in cooperation with workers, employers and their organizations. The Committee also once again requests the Government to provide information on any complaints regarding discrimination in remuneration dealt with by the courts and any cases reported to labour inspectors, including their outcomes.

Slovakia

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

[Observation \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Articles 1 and 2 of the Convention. Legislation. Work of equal value. Given the persistence of occupational gender segregation in the country, noted by the Committee in its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee asks the Government to take the necessary steps to amend the definition of "work of equal value" provided for in section 119a(2) of the Labour Code, in order to give full legislative expression to the principle of the Convention. In doing so, the Committee requests the Government to ensure that, when determining whether two jobs are of equal value, the overall value of the jobs is considered and that the definition allows for jobs of an entirely different nature to be compared free from gender bias and that the comparison goes beyond the same employer. It asks the Government to provide information on any progress made in that regard, as well as on the application in practice of section 119a(2) of the Labour Code, including by providing concrete examples on the manner in which the term "work of equal value" has been interpreted in administrative or judicial decisions.
- The Committee is [raising other matters in a request addressed directly to the Government](#).

Spain

UN: Equal pay for work of equal value (2018)

The Committee is concerned about the failure to implement fully the principle of equal pay for work of equal value (art. 7).

The Committee recommends that the State party redouble its efforts to eliminate the persistent wage gap between men and women, as well as to combat horizontal and vertical segregation in employment. As indicated during the dialogue, it encourages the State party to continue ensuring the effective application of the principle of equal pay for work of equal value, including by conducting comparative studies of organizations and occupations with regard to equal remuneration for work of equal value, with a view to requiring greater wage transparency in companies.

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation. The Committee requests the Government to provide information on the application in practice of the concept of “work of equal value” defined in section 28 of the Workers’ Statute, as amended by Royal Decree-law No. 6/2019 and Royal Decree No. 902/2020.
- Articles 1 and 2. Measures to address the gender wage gap and promote equal remuneration. Instruments for transparency in remuneration. Developments in legislation. The Committee requests the Government to provide information on the implementation, in practice, of the instruments for transparency in respect of remuneration, as well as any difficulties encountered in applying these tools, and the results obtained through their application, and in particular: (i) information on good practices identified through the wage records and pay audits; (ii) information on the number of violations identified in respect of the obligations regarding the wage records and the pay audit; and (iii) information on the assistance and guidance activities carried out to implement the instruments for transparency in respect of remuneration, indicating the numbers of beneficiaries.
- Public sector. The Committee requests the Government to provide detailed information on the measures adopted to apply the principle of the Convention in the different areas of public administration, including measures adopted under the AGE III Plan for Gender Equality 2020, specifying the concept of “work of equal value”, the mechanisms employed and results obtained.
- Measures to address the underlying causes of the gender wage gap. The Committee requests the Government to provide information on progress made in addressing vertical and horizontal occupational segregation on the grounds of gender, and to continue providing information disaggregated by sex, sector, occupation and form of work on the participation of men and women in the labour market. The Committee also requests the Government to provide information on the measures adopted to facilitate women’s access to full-time work for those women who so wish, and for the application, in practice, of the principle of equal remuneration for women workers in part-time or remote work.
- Article 3. Objective job evaluation. The Committee requests the Government to provide information on progress in adopting the new job evaluation procedure. The Committee also requests the Government to provide information on collective agreements that include systems to classify and define occupational groups, in compliance with Royal Decree-law No. 6/2019.
- Enforcement. Labour inspection. The Committee requests the Government to continue providing information on the measures adopted and the investigations conducted by the labour inspectorate, both within the framework of specific campaigns and in the course of their general activities, and on all legal or administrative rulings related to cases of wage discrimination on the grounds of sex, as well as the penalties imposed and compensation granted.

Türkiye

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

[Observation \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Articles 1 to 3 of the Convention. Women’s employment and job segregation. Gender wage gap. Recalling that occupational segregation, with women in lower paying jobs or sectors, is an underlying cause of remuneration gaps and noting the steps already taken in this regard, the Committee asks the Government to: (i) increase its efforts to address effectively both vertical and horizontal occupational segregation of men and women in the labour market as well as gender stereotypes; (ii) promote the access of women to a wider range of occupations and to higher positions both in the public and the private sectors, including through the development of lifelong learning; and (iii) provide information on the impact of these measures on the employment rate of women and the occupational gender segregation by sector of activity and by level of occupation. The Committee also asks the Government to continue to provide statistics on occupation by sector and level of occupation disaggregated by sex and to provide any recent study or statistics available on the gender pay gap, by sector if possible.
- Article 1(a) of the Convention. Additional emoluments. Family allowances. Civil Service. The Committee asks the Government to take the necessary measures so that section 203 of the Civil Servants Act, 1965, is amended with a view to ensuring that men and women civil servants are entitled to family allowances on an equal footing. The Committee asks the Government to provide information on the progress made to this end.
- Article 3. Objective job evaluation. The Committee asks the Government to continue to take steps to develop and promote the use of objective job evaluation methods in all sectors and to ensure that the principle of equal remuneration for men and women for “work of equal value”, and not only for “equal work”, is made an explicit objective of such an evaluation method. The Committee also asks the Government to provide information on the review of the Metal Industry Job Evaluation System mentioned by TİSK, including details on the criteria and the principle established and any results obtained in terms of wage adjustments, as well as information on any other job evaluation system currently used in other sectors of the economy.
- The Committee is [raising other matters in a request addressed directly to the Government](#).

Paragraph 5

Albania

ILO - Convention n° 95 Protection of Wages (1949)

[Direct Request \(CEACR\) - adopted 2018, published 108th ILC session \(2019\)](#)

- Article 8(1). Deductions from wages. The Committee requests the Government to provide information on the application of section 122(2) of the Labour Code in practice and in particular on how it may be determined that a damage has been deliberately caused in this context.

Armenia

ILO - Convention n° 95 Protection of Wages (1949)

[Direct Request \(CEACR\) - adopted 2017, published 107th ILC session \(2018\)](#)

- Minimum Wage Fixing Convention, 1970 (No. 131) Articles 3 and 4 of the Convention. Criteria for the determination of the minimum wage level and consultations for the operation and modification of the system of minimum wage. The Committee requests the Government to provide information on developments in this respect
- Article 2 of the Convention. Application to public officials and public servants. The Committee therefore requests the Government to indicate whether provisions of this Law ensure that public officials and public servants benefit from the protection of the Convention, and if this is not the case, how effect is given to the Convention for this category of workers.
- Article 3(1). Prohibition of payment in a form other than legal tender. The Committee requests the Government to provide information on the cases, if any, in which the law authorizes the payment of wages in the form of securities or commitments.
- Article 14(a). Information of workers in cases of changes in their wages. Therefore, the Committee requests the Government to provide information on whether measures have been taken to ensure that workers are informed in cases of changes in their wages, in accordance with Article 14(a) of the Convention.
- Article 15(d). Wage records. Recalling that the maintenance of wage records also serves to facilitate the work of labour inspectors, the Committee requests the Government to indicate whether and how labour inspectors have access to wage records.
- Sanctions and labour inspection. With reference to its comments under the Labour Inspection Convention, 1947 (No. 81), the Committee requests the Government to provide specific information on the measures taken to inspect compliance with the national provisions on minimum wage and protection of wages, and on the sanctions adopted in cases where violations have been identified, if any. It also requests the Government to provide information on the provisions of the national legislation which contain the possible sanctions in this respect.

Azerbaijan

ILO - Convention n° 95 Protection of Wages (1949)

[Direct Request \(CEACR\) - adopted 2017, published 107th ILC session \(2018\)](#)

- Article 3 of Convention No. 131. Criteria for determining minimum wage levels. The Committee requests the Government to continue to provide information on any developments in this respect.
- Article 8. Deductions from wages. Recalling that provisions of national legislation which permit deductions by virtue of individual agreements or consent are not compatible with Article 8 (2003 General Survey on the protection of wages, paragraph 217), the Committee requests the Government to take the necessary measures to bring the national legislation into conformity with Article 8.

Bulgaria

ILO - Convention n° 95 Protection of Wages (1949)

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 4(2) of the Convention. Partial payment in kind. The Committee requests the Government to provide information on the measures adopted in this regard.
- Article 12(1). Regular payment of wages. The Committee notes that CITUB denounces a rampant practice of irregular payment of wages. CITUB considers that the labour inspectorate

does not have enough capacity to deal with the issue. The Committee requests the Government to provide its comments on these matters.

Greece

ILO - Convention n° 95 Protection of Wages (1949)

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 12 of the Convention. Regular payment of wages. Final settlement of wages upon termination of employment. The Committee requests the Government to continue to provide updated information on the number of fines imposed, complaints received and labour disputes handled which relate to any cases of non-payment or irregular payment of wages.

Italy

ILO - Convention n° 95 Protection of Wages (1949)

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 4(1) of the Convention. Partial payment of wages in kind. The Committee considers that for the sake of legal certainty, article 2099(3) of the Civil Code should be amended in order to only allow payments in kind to be partial, as provided for under Article 4. The Committee therefore requests the Government to take the necessary steps and to provide information in this regard.

Poland

ILO - Convention n° 95 Protection of Wages (1949)

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 8(1). Deductions from wages. The Committee notes that Solidarność reports that there have been cases with respect to civil law contracts where, in order to reduce workers' remuneration, considerable deductions have been applied, for example, deductions of fees paid to rent the necessary equipment to perform work. The Committee requests the Government to provide its comments in this regard. The Committee also requests the Government to provide information on the application of section 82 in practice, and on the procedure in place for the determination of workers' liability in this context.
- Article 12(1). Regular payment of wages. The Committee therefore requests the Government to pay special attention to the specific sectors at risk in its efforts to ensure that wages are paid to workers in full and on time, and to prevent the recurrence of wage arrears and similar practices in the future. It also requests the Government to continue to provide information in this regard.

Republic of Moldova

ILO - Convention n° 95 Protection of Wages (1949)

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 12(1). Regular payment of wages - In this context, the Committee requests the Government to take the necessary measures to ensure the regular payment of wages, as required by this Article of the Convention. It also requests the Government to provide

information on any progress made in this respect, as well as relevant statistics on this issue, including the violations detected, remedies applied, and sanctions imposed.

Romania

ILO - Convention n° 95 Protection of Wages (1949)

[Direct Request \(CEACR\) - adopted 2017, published 107th ILC session \(2018\)](#)

- Article 4 of Convention No. 95. Partial payment of wages in kind. The Committee therefore requests the Government to provide information on the measures taken or envisaged in this respect.

Spain

ILO - Convention n° 95 Protection of Wages (1949)

[Direct Request \(CEACR\) - adopted 2018, published 108th ILC session \(2019\)](#)

- Article 12(1). Regular payment of wages. Application in practice. The Committee requests the Government to provide information on a number of complaints received by the ITSS concerning the regular payment of wages, as well as on the number of complaints filed with the courts on the same matter, and their respective outcomes. The Committee also requests the Government to provide information on the mechanisms which have been established since 2012 for the resolution of wage claims by labour courts.

Article 5 – The right to organise

(see also under Article 6 paras. 1, 2 and 4 as well as Article 28)

Albania

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 2 of the Convention. Right to organize of foreign workers. The Committee requests the Government to take, without delay, the necessary measures, including consideration of possible legislative amendments, to ensure that all foreign workers, whether or not they have a residence or a working permit, benefit from the trade union rights provided by the Convention, particularly the right to join organizations which defend their interests as workers. The Committee requests the Government to provide information on any progress made in this respect.

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 1 of the Convention. Adequate protection of workers against acts of anti-union discrimination. The Committee therefore requests the Government to provide detailed information on the cases of anti-union discrimination resolved or pending before the CPD or the Court and to specify the duration of the proceedings and their concrete outcome.

Armenia

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

Observation (CEACR) - [adopted 2020, published 109th ILC session \(2021\)](#)

- Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations. The Committee therefore urges the Government to take the necessary measures to amend the Law on Trade Unions to ensure that employees of the Prosecutor's Office, judges (including of the Constitutional Court), civilians employed by the police and security services, self-employed workers, those working in liberal professions, and workers in the informal economy can establish and join organizations for furthering and defending their interests. It requests the Government to provide information on all progress made in this respect.
- Minimum membership requirement. Recalling that it has been raising the issue of minimum membership requirement for the last ten years, the Committee expects that, in consultation with the social partners, both the Law on Trade Unions and the Law on Employers' Unions will be amended in the near future so as to lower the minimum membership requirements and to ensure that more than one organization can be established at various levels. The Committee requests the Government to provide information on the developments in this regard.

Bosnia and Herzegovina

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

Observation (CEACR) - [adopted 2020, published 109th ILC session \(2021\)](#)

- Article 2 of the Convention. Scope of application. Recalling that the right to organize should be guaranteed to all workers without distinction or discrimination of any kind, including to workers without an employment contract, domestic workers, agricultural workers, workers in the informal economy and self-employed workers, the Committee once again encourages the Government to revise the relevant legislation in the three entities to ensure that the above categories of workers enjoy, in law and in practice, all the rights guaranteed by the Convention.

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Relationship with workers' and employee councils. Republika Srpska and the Brčko District. The Committee therefore requests the Government once again to clarify the relationship between workers' councils and trade unions as a matter of law and practice, in section 134 of the BD Labour Act and should trade unions be in a subsidiary position vis-à-vis workers' councils, to take the necessary measures, including amendments of the above provision, to ensure that the existence of workers' councils does not undermine trade unions and their activities.
- Act on Associations and Foundations. Failure to register. Brčko District. The Committee understands from the above that sections 25(1) and 45(1)(a) of the BD Act on Associations and Foundations would be applicable to workers' and employers' organizations and therefore requests the Government to amend these provisions to ensure that the exercise of legitimate trade union and employer organization activities is not dependent upon registration, and failure to register is not subject to sanctions.
- Act on Associations and Foundations. Suspension of activities and dissolution of trade unions. In light of the foregoing, the Committee requests the Government: (i) to clarify whether

workers' and employers' organizations in the Brčko District can be suspended or dissolved under section 37 of the BD Act on Associations and Foundations, or whether provisions of the Labour Act effectively preclude such suspension or dissolution, and (ii) if necessary, to take the pertinent measures to amend the relevant provisions, in consultation with the social partners, in order to ensure that trade unions and employers' organizations can be suspended or dissolved only in cases of serious breaches of the Act and following a normal judicial procedure.

- Article 3. Right of employers' and workers' organizations to elect their representatives in full freedom and to organize their administration and activities. Act on Strikes. Institutions of Bosnia and Herzegovina. Taking due note of the above, the Committee requests the Government to provide information on the application in practice of the Act on Strikes in the Institutions of Bosnia and Herzegovina, in particular on the number of strikes undertaken and the categories of public servants concerned.

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

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 4 of the Convention. Adequate protection against acts of anti-union discrimination. While taking note of the general measures of protection against anti-union discrimination applicable to the recruitment of public employees, the Committee requests the Government to indicate any concrete protection mechanisms contemplated at the level of the Institutions of Bosnia and Herzegovina to ensure adequate protection for all active public employees covered by the Convention, in particular against anti-union dismissal, including, inter alia, the requirement to obtain prior opinion or authorization from an independent authority, adequate compensation for any damage suffered and sufficiently dissuasive sanctions. As to Republika Srpska, and taking due note of the above, the Committee understands that reinstatement coupled with compensation would also apply to anti-union dismissal of public employees. The Committee requests the Government to provide information on the practical application of the sanctions foreseen for breach of provisions prohibiting acts of anti-union discrimination against public employees, in particular anti-union dismissal, with respect to all administrative divisions.
- Application of the Convention. Brčko District. The Committee therefore requests the Government to provide concrete information concerning the application of the Convention in the Brčko District for each of the Articles of the Convention mentioned above, to provide a copy of the Act on Civil Service and to indicate what entity is in charge of supervising the implementation of the Act.

[Direct Request \(CEACR\) - adopted 2017, published 107th ILC session \(2018\)](#)

- Article 4 of the Convention. Adequate protection against acts of anti-union discrimination. While taking due note of this information, the Committee requests the Government to indicate which protection mechanisms are contemplated, at the level of the Institutions of BiH as well as the Federation of BiH and the Republika Srpska, in order to ensure adequate protection for all public employees covered by the Convention against anti-union dismissal, including, inter alia, the requirement to obtain prior authorization from an independent authority, as well as compensation and sufficiently dissuasive sanctions. The Committee requests the Government to provide information in this respect.
- Article 5. Independence from public authorities and adequate protection against acts of interference by a public authority. Considering that under the Convention such provisions may amount to interference by public authorities, in their role as employers, the Committee requests the Government to ensure that public employees' organizations can be suspended or

dissolved only in cases of serious breaches of the Acts and following a normal judicial procedure, and to provide information in this regard.

- Article 6. Facilities to be afforded to public employees' organizations. The Committee requests the Government to indicate whether in practice, in the Federation of BiH, organizations of civil servants have entered into collective agreements defining the necessary conditions and facilities to be granted under Article 6 of the Convention.
- Application of the Convention. Brčko District. The Committee requests the Government to provide information concerning the application of the Convention in the Brčko District for each of the articles of the Convention mentioned above.

Finland

Council of Europe - ECHR

ECtHR, communicated case 21.10.2020, No. 52977/19, [Hellgren v. Finland](#)

The applicant complains under Article 11 that her right to association and to trade union rights have been violated as the interference was not prescribed by law, did not pursue a legitimate aim or was not necessary in a democratic society. She complains under Article 14 that she has been discriminated against on the basis of her membership in a trade union.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicant's freedom of association, within the meaning of Article 11 § 1 of the Convention? If so, was that interference prescribed by law and necessary in terms of Article 11§ 2?
2. Has the applicant suffered discrimination in the enjoyment of her Convention rights, contrary to Article 14 of the Convention? If so, did that difference in treatment pursue a legitimate aim and did it have a reasonable justification?

France

UN (2016)

The Committee condemns the reprisals taken against trade union representatives and observes with concern the shrinking of democratic space for collective bargaining (art. 8).

The Committee urges the State party to adopt effective measures for the protection of persons involved in trade union activities and for the prevention and punishment of all forms of reprisal. It also urges the State party to ensure that the collective bargaining process is effective and to uphold the right to union representation in accordance with international standards as a means of protecting workers' rights in terms of working conditions and social security.

[ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#)

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 2. Freedom to form unions. The Committee trusts that the formalities requested by the local authorities will not be applied in a way that can interfere with the right of workers, without distinction whatsoever, including nationality, to establish and join organisations of their own choosing

- Parity in occupational elections. While noting the information provided by the Government with regard to the recognition by legislation and case law of a relationship of proportionality between the number of candidates and the number of male and female employees in the electoral college of the enterprise, the Committee requests the Government to provide its comments in reply to the observations of the CGT-FO with regard to the fact that it is not possible for trade unions to put forward sole candidates.
- Articles 2, 3, 6, 7 and 10. Standing of trade unions and trade union federations to take action. Noting the trade union federation concern that even a local exception to a legal rule or principle may be invoked in subsequent cases that affect members' legitimate interests, and emphasizing the importance of the right of trade unions to access to justice in order to defend the collective interests of their members, the Committee requests the Government to provide more detailed information on how this right is regulated in the legislation and in case law, and to indicate in this regard the criteria used by the competent courts to define its contours, including with respect to decisions of allegedly local scope.

CoE - ECHR

ECtHR communicated case 31.5.2021, No. 20536/17, [ADEFDROMIL c. France](#)

La requête concerne les suites d'une première affaire Adefdromil à l'issue de laquelle la Cour, par un arrêt du 2 octobre 2014, avait conclu, que l'ingérence au sens de l'article 11 § 2 de la Convention prévue par les anciennes dispositions du droit national n'était ni proportionnée ni « nécessaire dans une société démocratique » s'agissant alors d'une interdiction pure et simple faite aux militaires de constituer et d'adhérer à tout groupement de nature syndicale (Adefdromil c. France, no [32191/09](#), §§ 60-61, 2 octobre 2014). Au vu notamment des modifications législatives présentées par l'État français, le Comité des Ministres déclara qu'il avait rempli ses fonctions (résolution finale du 19 avril 2017 (CM/Resch(2017)117)).

La présente requête concerne donc les nouvelles limites imposées en droit interne par la loi no 2015-917 du 28 juillet 2015 portant diverses dispositions relatives notamment à la possibilité pour les militaires de constituer et d'adhérer à un groupement spécifique de nature syndicale.

La requérante soulève principalement, comme dans la première affaire, un grief tiré de l'article 11 de la Convention.

QUESTIONS AUX PARTIES

1. Les arrêts du Conseil d'État déclarant l'association Adefdromil irrecevable à demander l'annulation de textes réglementaires, au motif qu'elle ne s'est pas constituée en une « association professionnelle nationale de militaires » réservée aux seuls militaires en activité, seule structure habilitée à se pourvoir et intervenir devant les juridictions compétentes contre tout acte réglementaire relatif à la condition militaire, caractérisent-ils une restriction dans l'exercice du droit à la liberté d'association de la requérante au sens de l'article 11 § 2 de la Convention ?

2. Au vu de ses conséquences pour l'association requérante, les restrictions fixées aux articles L. 4126-1 et suivants du code de la défense actuellement en vigueur sont-elles « nécessaires dans une société démocratique » pour atteindre l'un des buts énumérés au second paragraphe de l'article 11 de la Convention ? S'agit-il de restrictions légitimes au sens de la dernière phrase de cet article ?

Germany

ILO - Workers' Representatives Convention, 1971 (No. 135)

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- The Committee notes the observations of the German Trade Union Federation (DGB) received on 31 August 2021, alleging gaps in the protection of workers' representatives, in particular with respect to attempts at preventing works council ballots. The Committee notes that the DGB points to the adoption of the Works Council Modernization Act, 2021, amending the Works Constitution Act, 2001, which governs the establishment and functioning of works councils and alleges that while some improvements have been made in the legislation, gaps remain both in matters of protection of workers' representatives and the applicable sanctions. The Committee further notes the Government's indication that the Works Constitution Act and the European Works Councils Act have been amended as a result of new laws adopted between 2016 and 2020, but observes that the Government does not refer to the Works Council Modernization Act mentioned by the DGB. In line with the above, the Committee requests the Government to provide its reply to the DGB observations and to indicate the amendments made to the relevant national legislation, whether the Works Constitution Act or other laws giving effect to the guarantees of the Convention, as a result of the Works Council Modernization Act, 2021 and, in particular, to clarify the effect of these amendments on the rights guaranteed by the Convention.

Greece

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 2 of the Convention. Right of workers to form and join organizations of their own choosing without previous authorization. The Committee trusts that the establishment of the electronic registry does not interfere with the rights of workers' and employers' organizations to form and join the organization of their own choosing and requests the Government to provide detailed information on the practical application of this new process, including the number of organizations registered following its introduction and, if applicable, the reasons for refusal to register any organizations.
- Article 3. Right of all workers' and employers' organizations to organize their administration and activities. The Committee notes that SEV welcomes the introduction in Law 4808/2021 of the provisions for remote participation and voting in a general assembly of members, which it considers to be a step towards modernizing the trade union framework. The GSEE, however, raises concern that the mandatory use of new digital technologies for trade unions has not legislated procedural guarantees for the access for all organizations to an adequate uniform digital voting system that ensures the individuality and secrecy of the ballot. The Committee requests the Government to provide information on the implementation of these provisions and any impact that they may have on the right of all workers' and employers' organizations to organize their administration and activities free from interference.

Hungary

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Repetition - Freedom of expression. The Committee highlights once again the need to take all necessary, including legislative, measures to guarantee that sections 8 and 9 of the Labour Code do not impede the freedom of expression of workers and the exercise of the mandate of trade unions and their leaders to defend the occupational interests of their members, and expects that its comments will be fully taken into account in the framework of the ongoing review of the Labour Code. It requests the Government to provide information on any progress achieved in this respect.
- Repetition - Article 2 of the Convention. Registration of trade unions. The Committee requests the Government to provide its comments on the observations of the ITUC and the workers' group of the National ILO Council concerning in particular the stringent requirements in relation to union headquarters, the alleged refusal of registration due to minor flaws, the alleged imposition of including the company name in the official name of associations, and the alleged difficulties created or encountered by trade unions because of the obligation to bring their by-laws into line with the Civil Code. The Committee also requests the Government to: (i) engage without delay in consultations with the most representative employers' and workers' organizations to assess the need to further simplify the registration requirements, including those relating to union headquarters; and (ii) take the necessary measures to effectively address the alleged obstacles to registration in practice, so as not to impede the right of workers to establish organizations of their own choosing. In the absence of the solicited information, the Committee also requests the Government once again to provide information on the number of registered organizations and the number of organizations denied or delayed registration (including the grounds for refusal or modification) during the reporting period.

CoE - ECHR

ECtHR, judgment 22.5.2018, No. 27585/13, [United Civil Aviation Trade Union and Csorba v. Hungary](#)

Violation of Article 11 - Freedom of assembly and association: The applicants alleged that the ban imposed on a demonstration planned by them had infringed their rights under Article 11 of the Convention

ECtHR, communicated case 9.2.2017, No. 27585/13, [Légiközlekedési Egyesült Szakszervezet and Csorba v. Hungary](#)

The first applicant is a trade union, Légiközlekedési Egyesült Szakszervezet ("the Trade Union"), with its seat in Budapest. The second applicant, Mr Attila Csorba, a Hungarian national who was born in 1970 and lives in Vecsés, is its president. They are represented before the Court by Mr D. Karsai, a lawyer practising in Budapest.

The applicants complain under Article 11 of the Convention about the refusal of their application to organise a demonstration.

QUESTIONS TO THE PARTIES

Has there been a violation of the applicants' right to freedom of peaceful assembly, contrary to Article 11 of the Convention?

Italy

CoE - ECHR

ECtHR, communicated case 15.5.2020, No. 79696/13, [Pansitta and others v. Italy](#)¹⁵

The applicants, members of the Revenue Police (Guardia di Finanza), complain about the ban provided by law (section 1475 § 2 of the Legislative Decree no. 66/2010) to form trade unions. By judgment no. 120 of 7 June 2018, the Constitutional Court confirmed the unconstitutionality of the above mentioned provisions.

QUESTIONS TO THE PARTIES

1. Does the interference with the applicants' freedom of association, in particular their right to form trade unions, provided for by section 1475 § 2 of the Legislative Decree no. 66/2010 (Military Code), constitute a violation of Article 11 § 1 of the Convention (see *Matelly v. France*, no. [10609/10](#), 2 October 2014, *Demir and Baykara v. Turkey* [GC], no. [34503/97](#), ECHR 2008 and *National Union of Belgian Police v. Belgium*, 27 October 1975, § 39, Series A no. 19)?

In particular, did the alleged interference in the present case fall within the State's margin of appreciation in the organisation of its armed forces, to which reference is expressly made in Article 11 § 2?

ECtHR, Communicated Case 5.4.2020, Nos. 19979/17 20745/17, [Cantoni c. Italie et 1 autre affaire](#)¹⁶

Les requêtes concernent les anciens membres du Corps de police des forêts (corpo forestale dello Stato), composé de civils exerçant des fonctions de police judiciaire et de sécurité publique, spécialisés dans la défense du patrimoine agricole et forestier. Par le décret no 177 de 2016, entré en vigueur le 13 septembre 2016, cette force de l'ordre civile fut absorbée au sein du Corps des Carabinieri, de nature militaire et les agents concernés furent, par conséquent, assujettis à l'interdiction militaire absolue de constituer une association professionnelle ou un syndicat et d'exercer un droit de grève (Code militaire, décret législatif 66/2010, article 1475 nos 2 4). Par un arrêt de la Cour Constitutionnelle de 2018, l'interdiction de constituer une association a été jugée contraire à la Constitution et les militaires peuvent ainsi former des associations professionnelles à caractère syndical dans les conditions et les limites fixées par la loi; ils ne peuvent pas, en revanche, adhérer à d'autres associations syndicales ni exercer de droit de grève.

Est en cause l'article 11 de la Convention.

QUESTIONS AUX PARTIES

1. Y a-t-il eu atteinte à la liberté de réunion des requérants compte tenu de la transformation du Corps de police des forêts en corps de police militaire et de leur assujettissement à l'interdiction de constituer une association professionnelle ou un syndicat et d'exercer un droit de grève au sens de l'article 11 § 1 de la Convention ? En particulier :

¹⁵ Because of a unilateral declaration of the Government, the Court found that 'it is appropriate to strike the case out of the list as regards the complaint raised under Article 11 of the Convention' (8.4.2021). This means that the structural problems are not solved.

¹⁶ Because of a unilateral declaration of the Government (including i.a. also the communicated case 23.4.2020, Nos. 21610/17 26205/17, [Loi c. Italie et 1 autre affaire](#)), the Court decided to strike the case out of the list ('de rayer les requêtes du rôle') (22.4.2021). This means that the structural problems are not solved.

- est-ce que les requérants avaient le choix de ne pas être transférés dans ce corps de police militaire mais d'être affectés à une administration de l'État (voir arrêt de la Cour Constitutionnelle no 170 de 2019) ?

- est-ce que les requérants se sont vu empêchés dans la constitution d'une quelconque action associative (compte tenu de la jurisprudence constitutionnelle selon laquelle, déjà sous l'ancienne discipline, tout en refusant aux militaires la liberté de former des syndicats, on leur aurait accordé certaines facultés typiques de celle-ci, en les déléguant à des organismes spécifiques - voir l'arrêt de la Cour constitutionnelle no 120 de 2018, § 7, qui renvoie au no 449 de 1999, § 3)?

2. Est-ce que les requérants peuvent être considérés victimes d'une violation de la Convention à la lumière de l'arrêt de la Cour Constitutionnelle de 2018 no 120 qui a déclaré l'illégitimité constitutionnelle de l'article 1475, paragraphe 2, du décret législatif no 66 du 15 mars 2010 (Code militaire), en ce qu'il prévoit que « les militaires ne peuvent pas former d'associations professionnelles à caractère syndical ni adhérer à d'autres associations syndicales » au lieu de prévoir que « les militaires peuvent former des associations professionnelles à caractère syndical dans les conditions et les limites fixées par la loi; ils ne peuvent pas adhérer à d'autres associations syndicales » ? Les requérants sont-ils victimes d'une violation de la Convention eu égard au fait que le droit de grève est exclu des droits syndicaux reconnus ? (arrêt de la Cour Constitutionnelle, paragraphe 17 avec un renvoi à sa jurisprudence précédente).

3. Les requérants disposaient-ils d'un recours effectif devant le tribunal administratif régional (TAR) pour faire examiner leur grief ? Est-ce que le TAR aurait pu interpréter le cadre législatif préexistant en reconnaissant le droit en question, nonobstant les dispositions contestées, compte tenu de l'arrêt du Conseil d'État no 5845 de 2017 qui a reconnu aux militaires le droit de s'inscrire à un parti politique et le droit d'être élu avec la limite de d'assumer une charge de nature politique.

Latvia

CoE - ECHR

ECtHR, Judgment, 2.6.2022, No. 59402/14, [Straume v. Latvia](#)

Violation of Article 11 on Freedom of association:

- Domestic court failure to apply convention standards and acceptably assess employee sanctions, in response to a complaint by a trade union, imposed on its representative
- Failure of domestic courts to take account of trade union element of complaint, whereby the very essence of its right to defend members' interests was being exercised
- Exceptionally harsh repercussions on applicant and further actions directed at trade union members pressuring them to distance themselves from the Trade Union complaint.

ECtHR, Communicated Case | 13/01/2020, No. 31876/15, [Tučs v. Latvia](#)

The case concerns an allegation that the domestic courts had allowed the procedures designed to protect members of the trade union to be circumvented. ...

The applicant complains under Article 6 § 1, Article 11 and Article 14 of the Convention about the lack of a fair trial and the lack of the necessary protection of his freedom of association and protection against the discrimination.

QUESTIONS TO THE PARTIES

... 2. Has the respondent State complied with its positive obligations under Article 11 of the Convention to secure the applicant's rights as a trade union member?

3. Has the applicant suffered discrimination in the enjoyment of his Convention rights on the ground of his trade union membership, contrary to Article 14 of the Convention read in conjunction with Article 11?

Lithuania

CoE - ECHR

ECTHR, communicated case 5.1.2021, No. 976/20, [Hoppen and Trade Union of Amber Grid Ltd. Employees V. Lithuania](#).

The applicants are also dissatisfied that the Constitutional Court did not accept and examine their individual complaint, wherein they had raised issues related to the trade unions' right to protect its interests.

The applicants further complain, under Article 14 of the Convention, taken in conjunction with Article 11, that the first applicant's dismissal was an attack against the second applicant – the trade union, its freedom of association, as well against the employees' right to form a trade union in order to collectively defend their rights. The applicants point out that the trade union's managerial body had lost a member due to interference by a State institution, the State Labour Inspectorate. The applicants consider that, given the principle of a trade union's right to act freely and independently, State institutions are not permitted to interfere in the trade unions' activities. The applicants find the State Labour Inspectorate's right to authorise that a member of the trade union's managerial body be dismissed to be unjustified interference in the trade union's right to freedom of association and to be discriminatory.

QUESTIONS TO THE PARTIES

... 2. Can the second applicant claim to be a victim of a violation of its rights under Article 14, taken in conjunction with Article 11 of the Convention?

Has there been a violation of the applicants' right to trade union freedom, which is a particular aspect of freedom of association (see *National Union of Belgian Police v. Belgium*, 27 October 1975, § 38, Series A no. 19, and *Swedish Engine Drivers' Union v. Sweden*, 6 February 1976, § 39, Series A no. 20), under Article 11 of the Convention, taken in conjunction with Article 14 (see, for general principles, *Demir and Baykara v. Turkey* [GC], no. [34503/97](#), §§ 140-146 and 154, 12 November 2008)? Have the applicants suffered discrimination in the enjoyment of their Convention rights on the ground of the first applicant's trade union membership?

Has the State Labour Inspectorate given due examination to the employer's and the applicants' arguments? Has it specifically analysed them and reflected them in its conclusion to permit the employer to dismiss the applicant?

Have the State Labour Inspectorate and the administrative courts assessed whether there was a pressing social need to dismiss the first applicant (see *National Union of Rail, Maritime and Transport Workers v. the United Kingdom*, no. [31045/10](#), § 83, ECHR 2014 [31045/10](#))?

Given the fact that the first applicant has been dismissed "at the employer's will", having regard to the interpretation given by the Lithuanian courts in the present case to existing anti-discrimination provisions, have the State Labour Inspectorate and the courts ensured that disproportionate penalties do not dissuade trade union representatives from seeking to express and defend their members'

interests (see Trade Union of the Police in the Slovak Republic and Others v. Slovakia, no. [11828/08](#), § 55, 25 September 2012, Tek Gıda İş Sendikası v. Turkey, no. [35009/05](#), §§ 54-56, 4 April 2017, and Ognevenko v. Russia, no. [44873/09](#), § 83, 20 November 2018).

Given the clash in the legal regulation between Article 21 § 1 of the Law on Trade unions and Article 168 § 3 of the Labour Code, has the State fulfilled its positive duty to take reasonable and appropriate measures to secure the applicants' rights under the Article 14, taken in conjunction with Article 11 of the Convention (see, National Union of Rail, Maritime and Transport Workers v. the United Kingdom, cited above, § 87; see also, mutatis mutandis, Danilenkov and Others, cited above, § 136)?

Latvia

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 2 of the Convention. Right to establish and join organizations. The Committee requests the Government to provide further information in light of the above, and to take any measures that may be necessary to ensure that this exclusion from the right to establish trade unions and participate in their operation is only applicable to members of the police and the armed forces.

Malta

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 2 of the Convention. Right to establish organizations without previous authorization. The Committee previously observed that section 51 of the Employment and Industrial Relations Act, 2002 (EIRA) provides that a trade union or an employers' association and any member, officer or other official thereof, may not perform any act in furtherance of any of the purposes for which it is formed unless such union or association has first been registered, and that the penalty for contravention of this provision is a fine not exceeding €1,165. The Committee reiterates its request for the Government to take the necessary measures to repeal section 51 of the EIRA.

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee requests however the Government to indicate before which body the public officers and the port workers may appeal against decisions taken by the PSC and the Port Workers Board, respectively, in case they consider they were subject to anti-union dismissals. The Committee reiterates its request for the Government to indicate the specific procedures applicable for the examination of allegations of anti-union dismissals concerning scheduled public transport workers. The Committee requests the Government to take the necessary measures within the framework of the revision of the EIRA to bring the legislation into conformity with the Convention by ensuring that sufficiently dissuasive sanctions are provided for acts of anti-union discrimination.

- Articles 2 and 3. Adequate protection against acts of interference. The Committee once again requests the Government to take the necessary measures to adopt specific provisions prohibiting acts of anti-union interference, coupled with rapid appeal procedures and sufficiently dissuasive sanctions.

Montenegro

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 4. Dissolution and suspension by administrative decision. Recalling that the dissolution and suspension of trade union organizations constitute extreme forms of interference by the authorities in the activities of organizations and should only take place following a normal judicial procedure which should have the effect of a stay of execution, the Committee requests the Government to take the necessary measures, including any necessary legislative amendments, to ensure that the procedure to delete a trade union organization from the register (pursuant to section 12(3) of the revised Rulebook on the Registration of Trade Unions and section 13(3) of the Rulebook on the Registration of Representative Trade Union Organizations) provides such safeguards. The Committee requests the Government to clarify whether the effect of the new sub-paragraph is simply to allow the concerned union to initiate the procedure for deleting it from the register in the previously described circumstances, or whether it enables any registered trade union to request deletion of another union from the register under section 12(3) of the Rulebook and section 13(3) of the Rulebook on the Registration of Representative Trade Union Organizations, and if so, to indicate the grounds for having introduced this possibility.

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. In view of the above, the Committee requests the Government to provide information on the practical application of section 209(1)(1) of the Labour Law concerning anti-union discrimination cases, in particular the type of violations identified, the nature of the remedies and the amount of the fines imposed.
- Article 2. Adequate protection against acts of interference. The Committee therefore reiterates its request to the Government to take measures to adopt specific legislative provisions prohibiting acts of interference by the employer or employers' organizations as established in Article 2(2) of the Convention and making express provision for rapid appeal procedures, accompanied with effective and sufficiently dissuasive sanctions.

ILO - CFA case

[Case No 3357 - Complaint date: 18-JAN-19 – Closed](#)

Allegations

- The complainant organization denounces violations of trade union rights by the Government with respect to the Trade Union of Defense and the Army of Montenegro (SOVCG), including acts of anti-union discrimination against its President and members, as well as denial of certain rights to the union and its members.

Committee recommendation

- The Committee invites the Government, within the framework of the existing national legislation, regulations and practice in Montenegro (Article 9(1) of Convention No. 87; Article 5(1) of Convention No. 98; and Article 1(3) of Convention No. 151), to encourage and promote social dialogue between the parties with a view to ensuring full and effective protection of the freedom of association rights of military personnel, as guaranteed by national laws and regulations.

North Macedonia

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Articles 2 and 9 of the Convention. Scope of application. Recalling that under the Convention only the armed forces and the police may be subject to limitations concerning the enjoyment of the guarantees provided by the Convention, as well as the need to ensure conformity of national constitutional provisions with the Convention, the Committee requests the Government to take the necessary measures to amend article 37 of the Constitution to eliminate the possibility for the law to restrict the conditions for the exercise of the right to trade union organization in administrative bodies.

Republic of Moldova

UN (2017)

The Committee is concerned that the incentive regime for the free economic zones, in particular the application of a 10-year freeze on complying with legislation for investors in free economic zones, may have a seriously adverse impact on the enjoyment of the Covenant rights by workers in those zones.

The Committee recommends that the State party take all measures to ensure that the Covenant rights of workers in free economic zones are fully guaranteed and protected, including the rights to just and favourable conditions of work, to form and join trade unions and to strike, to health and to social security.

Romania

UN (2014)

The Committee is concerned at the reported practice of certain employers who make employment conditional upon the worker agreeing not to create or join a trade union (art. 8).

The Committee recommends that the State party take the necessary measures to guarantee full protection against acts of anti-union discrimination, including by imposing sufficiently dissuasive sanctions on employers who violate workers' rights to create or join trade unions.

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021)

- Articles 1, 2 and 3 of the Convention. Effective protection against acts of anti-union discrimination and interference. Based on the above, the Committee requests the Government to: (i) take measures, after consultation with the representative social partners, to strengthen the existing sanctions in cases of anti-union discrimination in order to ensure their effectiveness and dissuasiveness, particularly for large enterprises; (ii) indicate whether reinstatement is an available remedy in cases of dismissal based on trade union affiliation or activity; and (iii) gather and communicate information on the number of cases of anti-union discrimination and employer interference brought to the various competent authorities, the average duration of the relevant proceedings and their outcome, as well as the sanctions and remedies applied in such cases. As mentioned in its previous comments, the Committee further requests the Government to ensure that anti-union practices, and in particular preventive measures in this respect, will be subject to tripartite discussions. ...

Poland

CoE - ECHR

ECtHR, communicated case 5.11.2020, No. 35673/15, [National Trade Union Workers' Initiative v. Poland](#)¹⁷

The applicant trade union complains under Articles 10 and 11 of the Convention that the ban on its activities targeting the Aelia company whose employees were the trade union's members, constituted an unlawful and unjustified interference with the applicant's freedom of expression and freedom of assembly. In particular, the applicant argues that the preliminary injunction was not in accordance with the law in so far as, in respect of the trade union's leaflets and pickets, it was to stay in place for an unspecified time and not for the statutory limit of one year. Moreover, the range of the trade union's activities which were covered by the court's ban was disproportionately wide.

QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicant trade union's right to freedom of expression, in particular its right to impart information, contrary to Article 10 of the Convention?
2. Has there been a violation of the applicant trade union's right to freedom of assembly, in particular its right to organise pickets, contrary to Article 11 of the Convention?

Portugal

CoE - ECHR

ECtHR, communicated case 29.11.2017, No. 24955/15, [Nóbrega v. Portugal](#)

The application concerns disciplinary proceedings instituted against the applicant, who was a trade unionist (delegado sindical), following statements made by him to the media about other disciplinary proceedings lodged against him.

The proceedings brought by the applicant before the Funchal Labour Court (domestic proceedings no. [525/07.7TTFUN](#)) to challenge his dismissal were rejected by a judgment of 17 May 2013, confirmed by the Lisbon Court of Appeal and the Supreme Court of Justice (the latter on 19 November 2014).

¹⁷ Because of a friendly-settlement, the Court has decided 'to strike the application out of its list of cases' (13.4.2021). This means that the structural problems are not solved.

Relying on Article 10, the applicant complains of having been unfairly dismissed on account of his statements to the media.

QUESTIONS TO THE PARTIES

1. Did the applicant's dismissal, which was confirmed by the domestic courts, constitute an interference with his right to freedom of expression and his trade union rights within the meaning of Articles 10 § 1 and 11 § 1 of the Convention (see *mutatis mutandis* Palomo Sánchez and Others v. Spain [GC], nos. [28955/06](#) and 3 others, § 52, ECHR 2011)?

2. If so, was the interference «prescribed by law» and «necessary in a democratic society» in terms of the second paragraphs of Articles 10 and 11 of the Convention? In particular, did the domestic judicial authorities comply with their positive obligations under Article 10 of the Convention read in the light of Article 11 to secure the right of the applicant to freedom of expression in the context of labour relations (see *mutatis mutandis*, Palomo Sánchez and Others v. Spain, cited above, § 61)?

The applicant is invited to provide a copy of the final decision of 27 October 2006 of the disciplinary proceedings, as referred in point 8 of the list of established facts of the judgement of the Funchal Labour Court of 17 May 2013.

Spain

CoE - ECHR

ECTHR, communicated case 13.10.2021, No. 49363/20, [Central Unitaria De Trabajadores/as v. Spain](#)

The application concerns the right to organise and take part in a peaceful demonstration during the Covid-19 pandemic. The applicant, a workers' union, informed the administrative authorities of its intention to hold a demonstration on 1 May 2020. The applicant proposed to apply appropriate sanitary measures to prevent the spread of the virus and expressed its willingness to adopt any other measures that might be suggested. The administrative authorities refused to authorise the demonstration, limiting themselves to explain that the circumstances of the pandemic were sufficiently serious for the applicant's right to demonstrate to be restricted. On appeal, the High Court of Justice of Galicia upheld the administration's decision to prohibit the demonstration. The amparo appeal brought before the Constitutional Court was declared inadmissible. The Constitutional Court weighed up the two fundamental rights in conflict, the right to demonstrate and the right to health and, in view of the specific circumstances, decided that the latter should prevail.

QUESTIONS TO THE PARTIES

1. Can the applicant claim to be a victim of the alleged violation of Articles 10 and/or 11 of the Convention?

2. Has the applicant suffered an interference with its rights of freedom of expression or of peaceful assembly within the meaning of Articles 10 and/or 11 of the Convention?

3. If so, was the interference prescribed by law, did it pursue a legitimate aim and was it necessary in a democratic society, in accordance with Articles 10 § 2 and/or 11 § 2? In particular, was the prohibition of the demonstration proportionate to the legitimate aims pursued? Would less stringent measures have achieved the same or a comparable result?

Article 6 - The right to bargain collectively

General considerations

Besides Article 5 on the right to organize, Article 6 ESC, containing the right to bargain collectively and the right to collective action including the right to strike, is of utmost importance for the trade union movement. Accordingly, the ETUC attributes specific attention to these provisions.

In this vein, it appears important to explicitly refer to two recent rulings of the Inter-American Court of Human Rights (IACtHR).

First, this Court has delivered an important ‘Advisory Opinion’¹⁸ on the full range of collective rights (including the gender dimension) by referring particularly to ILO jurisprudence concerning the right to collective bargaining and the right to strike. This has been followed, second, by a judgment against Guatemala dealing, in principle, with the same subject.¹⁹

This Court has made it clear that i.a. the right to strike is to be considered as ‘customary international law’ which gives it particular prominence.

Since the ECSR has taken IACtHR’s pronouncements into consideration in at least three decisions,²⁰ it would be logic to attribute specific importance to them.

Paragraph 1

(see also Article 5)

Austria

ILO - Workers’ Representatives Convention, 1971 (No. 135)

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 1 of the Convention. Protection against acts of anti-union discrimination. The Committee requests the Government to continue providing information as to how it is ensured that the grounds on which courts may approve the dismissal of workers’ representatives laid down in section 122(1)(iv) and (v) of the Labour Constitution Act (violation of the confidentiality requirement and grave insult against the employer), are subject to a sufficiently narrow interpretation taking into account the concerns raised by the BAK. In addition, the Committee further notes that, in its new observations, the BAK also states that: (i) in practice, employers repeatedly attempt to prevent works council elections, for instance, by dismissing employees who wish to stand as candidates within an enterprise or even by threatening to shut down the entire enterprise if the employees elect a works council; (ii) workers’ representatives employed under fixed-term contracts are not covered by the general

¹⁸ IACtHR, 5.5.2021, Advisory Opinion OC-27/21 - Rights to freedom to organize, collective bargaining, and strike, and their relation to other rights, with a gender perspective, Series A No. 27. http://www.corteidh.or.cr/docs/opiniones/seriea_27_ing.pdf (in Spanish).

¹⁹ IACtHR, 17.11.2021, Judgment in the Case of Former Employees of the Judiciary v. Guatemala.. Series C No. 445, http://www.corteidh.or.cr/docs/casos/articulos/seriec_445_ing.docx (in Spanish).

²⁰ [Decision on the merits of Complaint No.117/2015](#), (15.5.2018, *Transgender Europe and ILGA-Europe v. the Czech Republic*) para. 85. (para. 42: Advisory Opinion OC-24/17 of 24 November 2017 on Gender identity), [Decision on the merits of the Complaint 58/2009](#), (25.6.2010, *Centre on Housing Rights and Evictions (COHRE) v. Italy*), para. 75, [Decision on the merits of the Complaint 30/2005](#), (6.12.2006, *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*), para. 196 (with footnote [\[52\]](#)).

protections against dismissal set by section 105(3) of the Labour Constitution Act; and (iii) in the opinion of the European Committee of Social Rights of the Council of Europe, section 120(3) of the Labour Constitution Act, according to which employment and dismissal protection for works council members end as early as three months after their membership expires, should be revised. Emphasizing in particular that the protection against anti-union discrimination established by Article 1 of the Convention applies to workers' representatives in the enterprise, regardless of their contractual status, the Committee requests the Government to reply to the observations made by the BAK.

Bosnia and Herzegovina

ILO - Workers' Representatives Convention, 1971 (No. 135)

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 1 of the Convention. Adequate protection of workers' representatives against acts of discrimination related to their representative functions. The Committee requests the Government to indicate whether this protection also extends to elected workers' representatives other than trade union officers.
- Article 2. Facilities granted to workers' representatives. Brčko District. The Committee therefore requests the Government to indicate whether any other measures are in place or foreseen to give effect to Article 2 of the Convention and if not, to take the necessary measures, including legislative, to grant such facilities to workers' representatives so as to enable them to carry out their functions promptly and efficiently.
- Articles 3, 4 and 5. Relations between trade union representatives and elected representatives. In light of the above, the Committee requests the Government once again to clarify the relationship between trade unions and workers' councils, or any other form of elected representatives, as a matter of law and practice, in the Brčko District.

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 2. Facilities granted to workers' representatives. Federation of Bosnia and Herzegovina and Republika Srpska - The Committee requests the Government to provide information on the application in practice of this provision, in particular to indicate whether there have been cases in which the employer refused external trade union representatives not employed by the employer to have access to the concerned trade unions.
- Article 2. Facilities granted to workers' representatives. Brčko District. The Committee trusts that the new labour law which is in the process of being adopted will contain explicit provisions granting facilities to workers' representatives and requests the Government to provide a copy of this legislation once adopted.
- Articles 3, 4 and 5. Relations between trade union representatives and elected representatives. In light of the above, the Committee requests the Government once again to clarify the relationship between trade unions and workers' councils, or any other form of elected representatives, in the Brčko District.

Germany

ILO - Workers' Representatives Convention, 1971 (No. 135)

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- The Committee notes the observations of the German Trade Union Federation (DGB) received on 31 August 2021, alleging gaps in the protection of workers' representatives, in particular with respect to attempts at preventing works council ballots. The Committee notes that the DGB points to the adoption of the Works Council Modernization Act, 2021, amending the Works Constitution Act, 2001, which governs the establishment and functioning of works councils and alleges that while some improvements have been made in the legislation, gaps remain both in matters of protection of workers' representatives and the applicable sanctions. The Committee further notes the Government's indication that the Works Constitution Act and the European Works Councils Act have been amended as a result of new laws adopted between 2016 and 2020, but observes that the Government does not refer to the Works Council Modernization Act mentioned by the DGB. In line with the above, the Committee requests the Government to provide its reply to the DGB observations and to indicate the amendments made to the relevant national legislation, whether the Works Constitution Act or other laws giving effect to the guarantees of the Convention, as a result of the Works Council Modernization Act, 2021 and, in particular, to clarify the effect of these amendments on the rights guaranteed by the Convention.

Luxembourg

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Repetition - Article 3 of the Convention. The right of workers' organizations to elect their representatives in full freedom, and to freely organize their activities and to formulate their programmes. The Committee previously referred to the 2016 observations of the Confederation of Christian Trade Unions of Luxembourg (LCGB) expressing regret that the new Act reforming social dialogue within enterprises entered into force in the absence of the Grand Ducal Regulations for its implementation, which are envisaged in various provisions, and indicating that this situation is hampering the exercise of trade union rights. The Committee notes the Government's indication that three Grand Ducal Regulations, implementing sections L.412-2, L.413-1 and L.416-1 of the Labour Code, are in the course of adoption in 2017 within the framework of the legislative procedure. The Committee also notes that the procedures for votes by correspondence, about which the LCGB expressed concern, are specified in the draft Grand Ducal Regulations in relation to the election procedures for staff delegates. The Committee requests the Government to indicate any progress made in the adoption of the above draft Regulations and to report on any draft regulations on the new mediation procedure under section L.417-3 of the Labour Code.

Paragraph 2

(See also the information provided under para. 4.)

Albania

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 4. Promotion of collective bargaining. The Committee therefore encourages the Government to take further measures to promote collective bargaining including at the

national level when the parties so desire. It further requests the Government to continue providing information on the number of collective agreements that have been concluded and that are in force, the sectors covered, and the percentage of workers covered.

ILO- Collective Bargaining Convention, 1981 (No. 154)

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 5 - Promotion of collective bargaining in the public sector. Recalling that, under the terms of the Convention, civil servants should not only be consulted but also be in a position to bargain collectively on conditions of employment and work, the Committee requests the Government to indicate, how the right of civil servants to bargain collectively is recognized, both in law and in practice, and to provide information on collective agreements signed and in force in the public sector.
- Article 5(e). Settlement of labour disputes. In view of the above, the Committee requests the Government to provide specific information on the measures taken, both in law and in practice, to encourage and promote the effective functioning of dispute settlement mechanisms, in particular the conciliation and mediation boards, both in the private and public sectors.

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Repetition
- Article 5 of the Convention. Collective bargaining in the private sector. The Committee notes that the Government indicates that the Ministry of Labour, Social Affairs, and Equal Opportunities has undertaken activities with the social partners to encourage collective bargaining in the private sector. The Government further indicates that a memorandum of understanding was concluded in February 2011 between the Council of Ministers, the employers' and workers' organizations and the members of the National Labour Council. The Committee notes the Government's indication that private employers often fail to file the collective contracts at the labour offices and that therefore the number of collective contracts in the private sector does not reflect the total number of collective contracts that have been concluded. The Committee notes that, in its report, the Government does not provide detailed information on the number of collective agreements concluded in the private sector and the percentage of workers covered. The Committee requests the Government to provide further information on the measures taken and any other measures contemplated to promote collective bargaining in the private sector, as well as the approximate number of collective agreements reached and the sectors concerned or, at least, information on the most relevant collective agreements, indicating the percentage of workers covered.

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

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Articles 4 and 5 of the Convention. Protection against anti-union discrimination and interference. Recalling that the existence of general legal provisions prohibiting acts of anti-union discrimination and interference is insufficient unless accompanied by effective and rapid procedures to ensure their application in practice, the Committee therefore requests the Government to provide information on the enforcement mechanisms available to civil servants subject to anti-union discrimination and interference practices and to ensure that the mentioned procedures fully comply with Articles 4 and 5 of the Convention.
- Article 6. Facilities for workers' representatives. In light of the above, the Committee requests the Government to indicate the manner in which it ensures, in law and practice, that

representatives of recognized organizations of civil servants and public employees are provided with the necessary facilities to enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.

Armenia

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

[Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 4 of the Convention. Collective bargaining. Pursuant to section 23 of the Labour Code, if no trade union exists at an enterprise, or if the existing unions represent less than half of the employees of the undertaking, the staff meeting may elect other representatives. The Committee expects the Government to take immediate action to amend section 23 of the Labour Code and requests it to provide information on any progress made in this regard.

The Committee reminds the Government that it can avail itself of the technical assistance of the Office.

Belgium

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

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 4. Right to collective bargaining. Wage fixing. Noting the divergence in approach between the trade unions, on the one hand, and the Government and employers' organizations, on the other, the Committee requests the Government to provide detailed information on the effect given to the provisions of the Act of 26 July 1996, as amended by the Act of 19 March 2017, so that it can assess their effects on the possibility of negotiating wages at any level.
- Harmonization of the joint committees and workers in the platform economy. In view of the above, and duly noting the information sent on the Constitutional Court decision of 23 April 2020, the Committee requests the Government to provide information on the various organizational structures in the digital platform economy and on the way in which the workers concerned are able to organize and conduct collective bargaining. The Committee invites the Government to hold consultations with the parties concerned with a view to ensuring that all platform workers covered by the Convention, irrespective of their contractual status, are authorized to participate in a free and voluntary collective bargaining. Considering that such consultations are intended to enable the Government and the social partners concerned to identify the appropriate adjustments to make to the collective bargaining mechanisms to facilitate their application to the various categories of platform workers, the Committee requests the Government to provide information on any progress achieved in this regard and on any legislative measures adopted or contemplated further to the Constitutional Court decision of 23 April 2020.
- Night work for e-commerce. In view of the above, the Committee invites the Government to hold consultations with the parties concerned to assess the effects of the exemption to the rules of collective bargaining introduced for e-commerce in relation to night work, and to determine possible measures to be taken in this regard.
- Taking trade union organisations to court for non-compliance with collective bargaining commitments. While stressing that mutual respect for the commitments undertaken in

collective agreements is a central aspect of the right to collective bargaining, the Committee requests the Government to indicate any legal obstacles that may prevent legal action from being taken against trade unions for failure to comply with their commitments in collective agreements, and to make any useful comments on the impact of the current situation on the effective implementation of collective agreements.

Bosnia and Herzegovina

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

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Bipartite negotiations. Federation of Bosnia and Herzegovina. In light of the above, the Committee requests the Government once again to take the necessary measures to ensure that, as a general rule, negotiations of collective bargaining agreements are conducted in a bipartite context, including at the national and sectoral levels, in order to ensure that the parties enjoy full autonomy in this respect. The Committee requests the Government to report any progress in this regard.
- Bipartite negotiations. Republika Srpska and the Brčko District. The Committee therefore requests the Government to take the necessary measures to progressively ensure that, as a general rule, negotiations of collective bargaining agreements are conducted in a bipartite context, including at the national and sectoral levels, in order to ensure that the parties enjoy full autonomy in this respect and that the content of the agreements is not dependent on the policy choices of successive governments.
- Procedure to determine the representativity of trade unions and employers' associations. Federation of Bosnia and Herzegovina and the Republika Srpska. The Committee invites the Government, in consultation with the social partners, to consider establishing an independent and impartial mechanism to determine the representativity of trade unions and employers' associations in the Federation of Bosnia and Herzegovina and the Republika Srpska and to provide information on any developments in this regard.

ILO- Collective Bargaining Convention, 1981 (No. 154)

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 1 of the Convention. Collective bargaining in the public sector at the level of the Republic. In light of the above, the Committee requests the Government to indicate the outcome of the bargaining process initiated by the Trade Union of Civil Servants and Employees in the Institutions of Bosnia and Herzegovina and to continue to provide information on any other collective agreement concluded and in force in the public sector at the level of the Republic, the number of workers covered by these agreements, as well as on any additional measures undertaken to promote the full development and utilization of collective bargaining under the Convention.
- Application of the Convention in practice. The Committee therefore invites the Government to adopt this approach in the future and trusts that the parties to the repealed collective agreements are able to freely negotiate and conclude new agreements. The Committee requests the Government to continue to provide information on the number of collective agreements concluded and in force in the Federation of Bosnia and Herzegovina and the Republika Srpska, the sectors concerned and the number of workers covered by these agreements, as well as on any additional measures undertaken to promote the full development and utilization of collective bargaining under the Convention. As for the Brčko

District specifically, the Committee therefore requests the Government to provide information on the practical application of section 152 of the BD Labour Act and to consider reviewing this provision, in consultation with the representative organizations of workers and employers, so as to remove the possibility for the authorities to intervene in collective agreements freely concluded by the social partners. The Committee further requests the Government to continue to provide information on the number of collective agreements concluded and in force, the sectors concerned and the number of workers covered by these agreements, as well as on any additional measures undertaken to promote the full development and utilization of collective bargaining under the Convention.

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 1 of the Convention. Collective bargaining in the public sector at the level of the Republic. In light of the above, the Committee requests the Government to indicate the outcome of the bargaining process initiated by the Trade Union of Civil Servants and Employees in the Institutions of Bosnia and Herzegovina and to continue to provide information on any other collective agreement concluded in the public sector at the level of the Republic, as well as on the number and categories of persons covered by such agreements.
- Article 1 - Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District. The Committee requests the Government to take the necessary measures to ensure that, as a general rule, negotiations of collective bargaining agreements are conducted in a bipartite context, including at the national and sectoral levels, in order to ensure that the parties enjoy full autonomy in this respect. It requests the Government to continue to provide statistics on the number of collective agreements concluded in the public sector, the industries to which they refer and the number of workers covered.
- Application of the Convention in practice. The Committee requests the Government to provide information in this regard. The Committee also requests the Government to continue to provide information on the number of collective agreements concluded in the Federation of Bosnia and Herzegovina and the Republika Srpska, the sectors to which they apply and the number of workers covered. The Committee requests the Government to indicate what measures are being taken to promote collective bargaining in the Brčko District and to continue to provide information on the number of collective agreements signed and the number and categories of workers covered.

Denmark

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

[Observation \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 4 of the Convention. Right to free and voluntary collective bargaining. While welcoming the step taken through the amendment of the DIS Act, the Committee requests the Government to continue, in consultation with the social partners, to make every efforts to ensure the full respect of the principles of free and voluntary collective bargaining so that Danish trade unions may freely represent in the collective bargaining process all their members and that collective agreements concluded by Danish trade unions may cover all their members – working on ships sailing under the Danish flag whether they are within or beyond Danish territorial waters or continental shelf, and regardless of their activities. The Committee requests the Government to provide information on any developments in this regard.

Estonia

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

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 4 of the Convention. Promotion of collective bargaining. The Committee therefore requests the Government to promote the full development and utilization of collective bargaining mechanisms so as to increase the number of workers covered by collective agreements, and to provide information on any measures taken or envisaged in this regard. The Committee further requests the Government to keep providing information on the number of workers covered by collective agreements.

France

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 4. Promotion of collective bargaining in small enterprises. On the basis of the above, the Committee requests the Government to: (i) clarify whether, in a small enterprise where there is an employee mandated by a representative trade union organization for the purpose of collective bargaining, the employer may freely choose another method of concluding a collective agreement (negotiation with non-mandated elected staff representatives where they exist; submission by the employer of a proposal to a vote of the staff in the absence of elected staff representatives in enterprises with up to 20 employees); (ii) continue to provide statistics on the use of the different ways of concluding collective agreements in small enterprises; and (iii) continue to provide information on measures to promote collective bargaining between the employer and workers' organizations in small enterprises. The Committee therefore requests the Government once again to take, in consultation with the representative social partners, the necessary measures to review the possibility enjoyed by agreements signed by non-union actors to derogate from protective clauses contained in higher-level agreements negotiated by trade unions. The Committee requests the Government to provide information on any progress in this regard.
- Promotion of collective bargaining. Platform workers. The Committee requests the Government to provide information on the results of this examination and on the adoption of any text concerning the exercise of the rights recognized by the Convention by platform workers, regardless of their contractual status.

Georgia

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 4. Promotion of collective bargaining. In the absence of information regarding the adoption of the amendment of Decree N301, the Committee requests the Government to provide information on the developments in this regard. The Committee requests the Government to take the necessary steps, in consultation with the social partners, to review section 63(5) of the Labour Code so as to ensure that it promotes the negotiated resolution of collective labour disputes. It requests the Government to provide information on all developments in this regard. It requests the Government to continue providing such

information in its reports. The Committee also requests the Government to provide its comments on the alleged by the GTUC violations of collective bargaining rights at a number of enterprises.

Germany

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

Observation (CEACR) - adopted 2021, published 110th ILC session (2022)

- Articles 4 and 6 of the Convention. Right to collective bargaining with respect to conditions of employment of public servants not engaged in the administration of the State. In view of the above, the Committee encourages the Government to continue engaging in a comprehensive national dialogue with representative organizations in the public service with a view to exploring innovative solutions and possible ways in which the current system could be developed so as to effectively recognize the right to collective bargaining of public servants who are not engaged in the administration of the State, including for instance, as previously indicated by the BDA, by differentiating between areas of genuinely sovereign domains and areas where the unilateral regulatory power of the employer could be restricted to extend the participation of representative organizations in the public service. Further noting that proceedings are currently ongoing before the European Court of Human Rights in relation to the ban on the right to strike of civil servants and observing that it may also have repercussions on the right of civil servants to bargain collectively, the Committee requests the Government to provide information on the resulting decision and on any impact it may have at the national level.

CoE - ECHR

The Registry of the Court has informed the public that the following cases will be decided on 5 July 2022:²¹

Association of Civil Servants and Union for Collective Bargaining and Others v. Germany (nos. 815/18, 3278/18, 12380/18, 12693/18, and 14883/18)

The applicants are three German trade unions: the Association of Civil Servants and Union for Collective Bargaining, Marburger Bund – the Association of Employed and State-employed Physicians in Germany and the Trade Union of German Train Drivers; and, six German nationals, who are members of the third applicant trade union.

The case concerns trade-union rights and notably legislation in Germany regulating conflicting collective agreements. In particular, in the event of a conflict, only the collective agreement of the largest trade union remains applicable.

Relying on Article 11 (freedom of association) of the Convention, the applicants complain that the relevant provisions of the Uniformity of Collective Agreements Act violated their right to form and join trade unions, including the right to collective bargaining. They argue in particular that the legislation resulted in their not being able to conclude collective agreements in companies in which a different trade union had more members, and in employers no longer wishing to negotiate with them.

²¹ <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7374208-10078553&filename=Forthcoming%20judgments%20and%20decisions%2005-07.07.2022.pdf>

Greece

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

Observation (CEACR) - adopted 2021, published 110th ILC session (2022)

- Article 4 of the Convention. Promotion of collective bargaining. In particular, the Committee observes that the proposal from the SEV for an arbitration system to be managed solely by the social partners highlights its concern that such a system can only be effective if it is independent and impartial and perceived to be so by both parties. The Committee considers that it is essential that all members of bodies entrusted with mediation and arbitration functions should not only be strictly impartial, but if the confidence of both sides on which the successful outcome of compulsory arbitration depends is to be gained and maintained, they should also appear to be impartial both to the employers and workers concerned. The Committee therefore invites the Government to continue to engage with the social partners, and to consider all possible options to bring this mechanism into full compliance with the obligation to promote free and voluntary collective bargaining. The Committee requests the Government to provide detailed information on the steps taken in this regard and reminds it that it may avail itself of ILO technical assistance.
- Conflict of collective agreements. The Committee notes the additional information provided by the Government in relation to section 55 of Act No. 4635/2019 concerning the concurrence of collective agreements which provides that enterprise-level collective agreements shall prevail over sectoral agreements exceptionally in the case of enterprises facing serious financial problems or in the process of restructuring. The Committee requests the Government to provide information on the manner in which this provision is applied in practice, along with any opinions issued by the Supreme Labour Council in this regard and any statistics as to its use. The Committee further requests the Government to reply to the GSEE allegations that Act No. 4808/2021 sets out a new restriction of the right to free collective bargaining and the conclusion of collective agreements by introducing new criteria of representativeness, competence, existence, legal nature or status of workers' and employers' organizations, and the prohibition of the exercise of collective rights until the issuance of a final court ruling and the abolition of the determination of pay terms and conditions by the National General Collective Agreement.
- Enterprise-level collective agreements and associations of persons. While appreciating the statistical information provided, the Committee is bound once again to recall the importance of promoting collective bargaining with workers' organizations, and requests the Government once again to indicate the steps taken to promote collective bargaining with trade unions at all levels, including by considering, in consultation with the social partners, the possibility of trade union sections being formed in small enterprises.
- Articles 1 and 3. Adequate protection against anti-union dismissal. The Committee notes the comments of the GSEE that there has been a diminishing level of protection for trade union members and officers, and requests the Government to reply to these allegations and continue to provide information and statistics relating to complaints of anti-union discrimination and any remedial action taken
- Digital platform workers. The Committee requests the Government to provide information on the application in practice of the collective rights granted to digital platform workers.

Hungary

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. The Committee expects that the Government will take the necessary steps to ensure that union officials, union members and elected representatives enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities, and requests the Government to provide information on developments in relation to the adoption of new legislative provisions in this regard. In the absence of the information solicited from the Government with respect to the working of the ETA, the Committee requests the Government once again: (i) to indicate whether, given that section 16(1)(a) of the Equal Treatment Act stipulates that the ETA may order the elimination of the situation constituting a violation of law, the ETA may order on that basis reinstatement in case of anti-union dismissals of trade union officials and members; (ii) to provide information as to whether the ETA may order compensation on the basis of section 82 of the Labour Code; and (iii) to provide information on the average duration of the proceedings before the ETA related to anti-union discrimination (including of any subsequent appeal procedures before the courts), as well as on the average duration of purely judicial proceedings.
- Article 2. Adequate protection against acts of interference. The Committee requests the Government once again to take all necessary measures to adopt specific legislative provisions prohibiting such acts of interference on the part of the employer and making express provision for rapid appeal procedures, coupled with effective and sufficiently dissuasive sanctions.
- Article 4. Collective bargaining in practice. The Committee requests the Government to provide information on the number of collective agreements signed, the sectors concerned and the share of the workforce covered by collective agreements.

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

ILO - Collective Bargaining Convention, 1981 (No. 154)

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Repetition Article 5 of the Convention. Promotion of collective bargaining. The Committee notes that, according to the workers' side of the National ILO Council, in case of publicly owned employers, the scope of issues that may be regulated by collective agreement is restricted by law. It also notes the Government's indication that the purpose of the limitation introduced for publicly owned employers in respect of entering into a collective agreement is to promote efficient management of assets in public ownership, fulfilment of public functions, prevention of concluding abusive agreements and the protection of public interest; and that parties must therefore observe the peremptory provisions of the Labour Code while regulating working conditions by means of collective agreement. The Committee requests the Government to indicate which subject matters are excluded from the scope of collective bargaining in case of publicly owned employers, specifying the relevant legislative provisions so as to enable the Committee to assess their conformity with the Convention.

ILO - CFA case

[Case No 3399 - Complaint date: 13-JAN-21 - Follow-up](#)

Allegations

- The complainant organizations alleges that Act C on the Health Service Legal Relationship adopted in October 2020 and its implementing decrees issued in November 2020, in the absence of effective social dialogue, are in violation of healthcare workers' collective bargaining rights and their right to strike.

Committee recommendation

- Concerned by the allegations that the measures subject of this case were taken without prior consultation, the Committee trusts the Government's promotion of the full development and utilization of collective bargaining machinery will secure a mutually agreed transition of the extraordinary measures implemented during the state of danger, including the derogation from the provisions of the Labour Code by section 6 of Government Decree No. 47/2020.
- The Committee encourages the Government to engage in dialogue with employers' and workers' organizations in order to limit the duration and the impact of the measures introduced by sections 1 and 4 of Government Decree No. 104/2020 and section 56 of Act LVIII of 2020, and ensure the full use of collective bargaining as a means of achieving balanced and sustainable solutions in times of crisis.

Ireland

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 4 of the Convention. Promotion of Collective bargaining. Self-employed workers. Recalling that it considers that the degree to which collective bargaining rights are assured to self-employed workers depends on the practical application of the Competition Act, the Committee requests the Government to continue to provide information on its practical application.

Italy

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 7. Procedures for determining terms and conditions of employment. Collective bargaining. The Committee also notes the joint observations of the Italian General Confederation of Labour (CGIL), the Italian Confederation of Workers' Trade Unions (CISL) and the UIL, received on 11 and 15 October 2021 regarding the Convention, as well as the application in the public sector of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The Committee notes in this regard that the union confederations: (i) express their agreement with the content of the reports presented by the Government concerning the application of the above Conventions; (ii) note the importance of the Agreement for innovation in public employment and social cohesion, signed by the Government and the trade union organizations on 10 March 2021; and (iii) emphasize that the collective bargaining system in the public sector is regularly threatened by legislative proposals intended to restrict the independence of the partners. While noting with interest the developed nature of the collective bargaining system in the public administration described by the Government, the Committee requests it to continue to provide information on this subject in the light of the above-mentioned observations of the trade union confederations.

Lithuania

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- The Committee notes section 200 of the Labour Code outlining the procedure for unilaterally terminating a collective agreement in force. The Committee requests the Government to: (i) clarify the rules and conditions governing the unilateral termination of collective agreements as set in the referred section of the Labour Code, specifying in particular whether any agreement can be unilaterally terminated at any time six months after its entry into force; and (ii) provide information on the application of this section in practice.

Montenegro

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 4. Promotion of collective bargaining. General Collective Agreement. The Committee therefore once again requests the Government to take, in consultation with the social partners, the necessary measures to amend the relevant provisions of the Labour Law to ensure that the general collective agreements are concluded in full compliance with the Convention.
- The Committee reminds the Government that the technical assistance of the Office remains at its disposal, if it so wishes, as regards the legal issues raised in this observation.
- The Committee is raising [other matters in a request addressed directly to the Government](#)

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Collective bargaining in practice. Welcoming the above information, the Committee invites the Government to continue to encourage and promote collective bargaining in the public sector and to continue to provide information on collective agreements concluded and in force in the public sector and the number of workers covered by these agreements

Romania

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 109th Session, June 2021) ...

- Collective bargaining at the company level. Expressing its concern at the persistent indications of a very low level of bargaining coverage and noting the recommendations of the Committee on Freedom of Association in Case No. 3323, the Committee requests the Government to take the necessary measures to promote collective bargaining between workers' and employers' organizations and to ensure that the existence of elected workers' representatives is not used to undermine the position of the workers' organizations concerned. In this regard, the Committee specifically requests the Government to: (i) specify how the mutual recognition between an employer and a minority trade union mentioned by the Government takes place in practice; (ii) provide information on the number of collective agreements concluded at

the enterprise level, indicating those concluded by minority trade unions on behalf of their own members; (iii) clarify whether, under section 134(2) of the SDA, the negotiating powers granted to the elected workers' representatives exist only when there is no trade union at the respective level; and (iv) take the necessary measures to ensure that agreements concluded with elected representatives prior to the 2016 amendment to the SDA do not have the effect of continuing to undermine the position of trade unions

- Collective bargaining at the sectoral and national levels. The Committee therefore reiterates its request to the Government to revise, in consultation with the representative social partners, the relevant thresholds and conditions in order to ensure that collective bargaining is effectively possible at all levels, including the sectoral and national levels. The Committee further requests the Government to provide information on the evolution of the number of collective agreements signed at the different levels above the enterprise level, as well as on the overall coverage of collective bargaining in the country. The Committee requests the Government to ensure that the mentioned reform has been duly consulted with the representative social partners and that its content will take on board the present comments in order to give full effect to the Convention. The Committee further trusts that the ILO technical advisory mission requested by the Conference Committee will take place before the next International Labour Conference and that it will be able to take note of the progress achieved in this respect.

ILO - CFA case

[Case No 3323 - Complaint date: 16-JUL-18 - Follow-up](#)

Allegations

- The complainants denounce the Government's failure to ensure compliance with the principles of freedom of association and collective bargaining which has resulted in widespread violations in law and in practice. The complainants allege shortcomings and gaps in the national legislation, denial of freedom of association and collective bargaining in many enterprises and systematic violations of fundamental rights of workers, including physical and verbal abuse, especially in the private sector.

Committee recommendation

- The Committee invites the Government to review the minimum membership requirement to establish a trade union, in full consultation with the social partners, and to take any appropriate measures to ensure that all workers can form and join organizations of their own choosing.
- The Committee encourages the Government to encourage and promote effective recognition of collective bargaining at all levels through the full development and utilization of the collective bargaining machinery by the social partners, as an effective means of regulating the terms and conditions of employment and contributing to the development and maintenance of constructive labour relations. It further trusts that the Government will reinforce measures, adapted to the national conditions, to ensure that collective bargaining can be conducted at any level whatsoever, including at the national level.
- The Committee invites the Government to review, together with the social partners, the alleged prevalence of collective agreements concluded with workers' representatives, so as to determine whether additional measures should be taken to promote collective bargaining between workers' and employers' organizations, with a view to ensuring that the agreements

concluded with elected representatives prior to the 2016 amendment do not have the effect of continuing to undermine the position of trade unions.

- The Committee trusts that the Government will ensure meaningful involvement of the social partners in the remaining part of the ongoing legislative review and that the proposed amendments will address all pending concerns as to the protection of the right to organize and collective bargaining.
- The Committee refers the above legislative aspects to the Committee of Experts on the Application of Conventions and Recommendations.
- The Committee trusts that the Government will take measures to bring the parties together with a view to encouraging genuine and constructive social dialogue based on good faith, as a means of establishing and maintaining a relationship of confidence between the parties and harmonious labour relations at the air transport company.
- Taking into consideration the negative effects that anti-union retaliation can have on trade union affiliation and functioning, the Committee requests the Government to conduct an independent investigation into the allegations of persistent anti-union retaliation at the air transport enterprise and, should these be confirmed, ensure the availability of effective remedies for the persons concerned, as well as sufficiently dissuasive sanctions. The Committee also invites the complainants to provide any relevant information in this regard to the competent national authorities so that they can proceed to an objective and full investigation of the matter. The Committee requests the Government to keep it informed of any investigation conducted, the outcome and the measures taken as a result thereof.

Paragraph 4

Albania

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 3. Right of organizations to organize their activities and formulate their programmes. The Committee requests the Government to indicate whether civil servants not exercising authority in the name of the state and working in the transport and public television services may exercise the right to strike, subject to the possible establishment of minimum services; and if these civil servants are not able to exercise said right, to take the necessary measures to amend the legislation in light of the above.

Armenia

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

[Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 3. Right of organizations to organize their administration and activities in full freedom. Recalling that the fundamental notion of Article 3 of Convention No. 87 is that workers and employers may decide for themselves the rules which should govern the administration of their organizations, the Committee once again requests the Government to consider amending the above-mentioned provisions in consultation with the social partners to ensure that only formal requirements are laid down by the national legislation with regard to the functioning of

organizations. While welcoming the proposed amendments, the Committee recalls that the observance of a quorum of two-thirds of the total number of employees may also be difficult to reach and could restrict the right to strike in practice. It therefore requests the Government to ensure that the quorum and majority required for voting on a strike as well as to call a strike are fixed at a reasonable level. The Committee requests the Government to provide information on the developments regarding the amendment of the Labour Code.

The Committee encourages the Government to pursue its efforts in addressing the issues raised above with the assistance of the ILO and in consultation with the social partners.

Belgium

UN (2020)

The Committee is also concerned at the lack of legal recognition for the right to strike (arts. 6 and 8).

The Committee also recommends that the State party guarantee the exercise of the right to strike in law and in practice, in full compliance with the Covenant. The Committee draws the State party's attention to its general comment No. 18 (2005) on the right to work and refers it to its joint statement with the Human Rights Committee on freedom of association, including the right to form and join trade unions (E/C.12/66/5-CCPR/C/127/4), adopted in 2019.

[ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#)

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 3 of the Convention. Right of trade union organizations to organize their activities and formulate their programmes. Malicious obstruction of traffic (section 406 of the Criminal Code). The Committee notes the information provided by the Government and by the trade union organizations. It requests the Government to continue to provide information on the application of section 406 of the Criminal Code and on the outcomes of criminal prosecutions engaged, in particular the appeal before the Court of Cassation against the decision of the Liège Court of Appeal of 19 October 2021.
- Prison services. Resolution of conflicts. Noting the information provided by the Government to guarantee a minimum service, the Committee requests the Government to provide additional information on the compensatory guarantees or resolution mechanisms applicable in disputes in the prison services.

Bosnia and Herzegovina

[ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#)

[Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 2 of the Convention. Scope of application. Recalling that the right to organize should be guaranteed to all workers without distinction or discrimination of any kind, including to workers without an employment contract, domestic workers, agricultural workers, workers in the informal economy and self-employed workers, the Committee once again encourages the Government to revise the relevant legislation in the three entities to ensure that the above categories of workers enjoy, in law and in practice, all the rights guaranteed by the Convention.

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Relationship with workers' and employee councils. Republika Srpska and the Brčko District. The Committee therefore requests the Government once again to clarify the relationship between workers' councils and trade unions as a matter of law and practice, in section 134 of the BD Labour Act and should trade unions be in a subsidiary position vis-à-vis workers' councils, to take the necessary measures, including amendments of the above provision, to ensure that the existence of workers' councils does not undermine trade unions and their activities.
- Act on Associations and Foundations. Failure to register. Brčko District. The Committee understands from the above that sections 25(1) and 45(1)(a) of the BD Act on Associations and Foundations would be applicable to workers' and employers' organizations and therefore requests the Government to amend these provisions to ensure that the exercise of legitimate trade union and employer organization activities is not dependent upon registration, and failure to register is not subject to sanctions.
- Act on Associations and Foundations. Suspension of activities and dissolution of trade unions. In light of the foregoing, the Committee requests the Government: (i) to clarify whether workers' and employers' organizations in the Brčko District can be suspended or dissolved under section 37 of the BD Act on Associations and Foundations, or whether provisions of the Labour Act effectively preclude such suspension or dissolution, and (ii) if necessary, to take the pertinent measures to amend the relevant provisions, in consultation with the social partners, in order to ensure that trade unions and employers' organizations can be suspended or dissolved only in cases of serious breaches of the Act and following a normal judicial procedure.
- Article 3. Right of employers' and workers' organizations to elect their representatives in full freedom and to organize their administration and activities. Act on Strikes. Institutions of Bosnia and Herzegovina. Taking due note of the above, the Committee requests the Government to provide information on the application in practice of the Act on Strikes in the Institutions of Bosnia and Herzegovina, in particular on the number of strikes undertaken and the categories of public servants concerned.
- Determination of minimum services. Institutions of Bosnia and Herzegovina. Recalling that any disagreement among the parties on the scope of the minimum service should be resolved by a joint or independent body, the Committee requests the Government once again to provide information in this respect.
- Trade union representatives. Republika Srpska. The Committee therefore encourages the Government to revise the applicable rules so as to remove this requirement and allow trade unions to freely determine the eligibility of trade union representatives.
- Act on Strikes. Republika Srpska. Determination of minimum services. The Committee therefore requests the Government once again to take the necessary measures to amend section 12 of the RS Act on Strikes, so as to allow trade unions, along with the employers and the public authorities, to participate in defining minimum services and, in case of disagreement among the parties, to provide for a joint or independent body to determine them. The Committee requests the Government to provide information on any progress made in this regard, as well as on the instances in which the determination of the minimum services was the subject of collective bargaining.
- Strike vote. Therefore, the Committee requests the Government to provide information on the application in practice of this provision and requests it to take the necessary measures to revise the voting requirements in line with the above, for example by setting a reasonable quorum, so as not to unduly hinder the workers' exercise of the right to strike.
- Compulsory arbitration. Taking due note of the above, the Committee requests the Government to provide further information on activities or industrial sectors that fall within

sections 32 and 33 of the RS Act on Peaceful Settlement of Labour Disputes. It also requests the Government to provide more details on the possibility to establish an arbitration commission referred to in sections 34-36 of the Act, in particular whether this mechanism can be used in case of interest disputes and can lead to a binding arbitration at the request of one party.

- Right to assembly in the context of a strike. Republika Srpska and the Brčko District. The Committee therefore trusts that, as indicated by the Government, workers during a strike in the Republika Srpska may gather outside the company where the strike takes place and that section 4(1)(d) of the BD Act on Strikes will be amended so as not to restrict freedom of assembly as part of the lawful exercise of the right to strike.
- Article 5. The right of workers' and employers' organizations to form federations and confederations. Brčko District. Noting the Government's indication that the BD Labour Act does not regulate the right of organizations of workers and employers to establish and join federations and confederations or to affiliate with international organizations, the Committee requests the Government to provide information on whether, even in the absence of legislation in this respect, workers' and employers' organizations can, in practice create and join higher-level organizations and affiliate to international organizations, and requests the Government to endeavour to take the necessary measures to recognize these rights in the legislation.

Bulgaria

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

[Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 3 of the Convention. Right of workers' organizations to organize their administration and activities and to formulate their programmes. The Committee requests the Government to provide information on any developments concerning sections 11(2) and 11(3) of the CDLSA, and to indicate what are the requirements for continuing a strike action beyond its initially determined duration, in particular whether a new vote and decision by the workers concerned must take place, or whether instead a decision by the trade union calling the strike is enough. The Committee requests the Government to revise section 51 of the RTA, in consultation with the most representative organizations, in order to ensure that it does not unduly restrict the right of workers' organizations to organize their activities through collective action while also covering no more than operations strictly necessary to meet the basic needs of the population or the minimum requirements of the service. The Committee recalls that the Government may avail itself of the technical assistance of the Office in this regard and requests the Government to provide information on any progress on the matter.

Estonia

UN (2019)

Despite the explanation given by the delegation, the Committee remains concerned that article 59 of the Civil Service Act does not allow civil servants to exercise their right to strike or to take part in other collective pressure actions that interfere with the performance of functions of the recruiting authority or of other authorities, as set out in the Act (art. 8).

The Committee recommends that the State party review the Civil Service Act with a view to allowing civil servants who do not provide essential services to exercise their right to strike in accordance

with article 8 of the Covenant and with the International Labour Organization Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

Germany

UN (2018)

The Committee remains concerned about the prohibition by the State party of strikes by all public servants with civil servant status, including schoolteachers with this status. This goes beyond the restrictions allowed under article 8 (2) of the Covenant, since not all civil servants can reasonably be deemed to be providers of an essential service (art. 8).

The Committee reiterates its previous recommendation (E/C.12/DEU/CO/5, para. 20) that the State party take measures to revise the scope of the category of essential services with a view to ensuring that all those civil servants whose services cannot reasonably be deemed as essential are entitled to their right to strike in accordance with article 8 of the Covenant and with the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

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

Observation (CEACR) - adopted 2021, published 110th ILC session (2022)

- Article 3 of the Convention. Right of workers' organizations to organize their administration and activities and to formulate their programmes. In view of the above, the Committee encourages the Government to continue engaging in a comprehensive national dialogue with representative organizations in the public service with a view to finding possible ways of aligning the legislation more closely with the Convention. Further noting that proceedings against the strike ban for civil servants are currently ongoing before the European Court of Human Rights, the Committee requests the Government to provide information on the resulting decision and on any impact it may have at the national level.

CoE - ECHR

ECTHR, communicated case 10.9.2019, Nos. 59433/18 59477/18 59481/18, [Humpert v. Germany](#) and 3 other applications

The applications concern the right of civil servants to strike.

The applicants are teachers, all employed by different Bundesländer as civil servants. As an expression of their support for a social movement requesting an improvement of learning conditions, including in particular an improvement of the working conditions for teachers, they did not appear at work for between one hour and three days. They were subsequently subjected to disciplinary sanctions for having been on strike. Domestic remedies before different administrative courts and the Federal Constitutional Court were to no avail. The Federal Constitutional Court held that the Basic Law obliged civil servants not to strike, which it considered compatible with the exigencies of the European Convention of Human Rights and the Court's case-law.

The applicants complained under Articles 11 and 14 of the Convention that the obligation not to strike was not prescribed by law, disproportionate and, in comparison with teachers employed on a contractual basis, discriminatory. They moreover complained under Article 6 § 1 of the Convention that the Federal Constitutional Court had failed to consider international treaties on the matter.

QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicants' right to freedom of association, contrary to Article 11 of the Convention?
2. Have the applicants suffered discrimination in the enjoyment of their Convention rights, contrary to Article 14 of the Convention?

Hungary

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Right of workers' organizations to organize their activities. The Committee therefore once again highlights the need to amend the relevant laws (including the Strike Act, the Passenger Transport Services Act and the Postal Services Act) in order to ensure that the workers' organizations concerned may participate in the definition of a minimum service and that, where no agreement is possible, the matter is referred to a joint or independent body. The Committee expects that the consultations on the modification of the Strike Act undertaken within the framework of the VKF will continue. It requests the Government to provide up-to-date information on the status or results of the negotiations with particular regard to the manner of determining minimum services and the levels imposed in the postal and passenger transport sectors, and expects that the Committee's comments will be duly taken into consideration during the legislative review.

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

Lithuania

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Recalling that organizations responsible for defending workers socio-economic and occupational interests should be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members and on workers in general, the Committee requests the Government to indicate whether under the legislation in force trade unions can have recourse to protest strikes against the Government's economic and social policies.

Malta

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 3. Right of organizations to freely organize their activities and to formulate their programmes. The Committee urges the Government to take the necessary measures to modify section 74(1) and (3) of the EIRA to ensure that compulsory arbitration may only take place

with the approval of both parties or in circumstances in which a strike can be restricted or prohibited. The Committee requests the Government to inform on any developments in this respect.

Republic of Moldova

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

[Direct Request \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 3 of the Convention. Right of workers' organizations to organize their activities. The Committee requests the Government to transmit a copy of Decision 389. It further once again requests the Government to indicate all measures taken in consultation with the social partners to adopt legislative provisions expressly providing for the participation of the relevant trade unions and employers' organizations in determining the minimum services to be ensured in the event of a strike.

Montenegro

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 3 of the Convention. Right to organize activities in full freedom. In view of the above, the Committee once again requests the Government to take the necessary measures to amend the Law on Strikes in consultation with the social partners so as to ensure that any determination of whether a strike organized under section 18 endangers the general interest of citizens and functioning of government authorities, and is therefore illegal, is the prerogative of an independent body that has the confidence of the parties involved. The Committee also requests the Government to provide information on the current status of the initiative to review the constitutionality of section 18 filed to the Constitutional Court by the UFTUM.

North Macedonia

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

[Observation \(CEACR\) - adopted 2021, published 110th ILC session \(2022\)](#)

- Article 3. Right of organizations to freely organize their activities and to formulate their programmes. The Committee requests the Government to take, in consultation with representative public employee and public employer organizations, any necessary measures to ensure the determination of minimum services in public enterprises conforms with the situations described above, and to provide further information concerning such determination in practice (in particular as to the types of activities, and percentage of employees in those activities, that have been affected by a determination of minimum services, as well as the possibility for employee organizations to participate in the definition of minimum services). Regretting the lack of progress in this respect, the Committee once again requests the Government to amend the Law on Primary Education and the Law on Secondary Education, so as to remove the possibility of replacing striking workers and to enable workers in the primary

and secondary education sectors to effectively exercise their right to strike, as well to provide a copy of the amended legal texts once adopted.

- Legislative review. The Committee expects that, in the context of the review of the Law on Labour Relations, the Government will take the necessary measures to bring its legislation into conformity with the Convention in line with the preceding comments and requests it to provide information on any developments, including a copy of the revised Law on Labour Relations once adopted.

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

Serbia

UN (2022)

While noting the ongoing drafting of a law amending the Law on Strikes, the Committee is concerned about the provisions in the Law on Strikes regarding minimum services, which restrict the rights to strike of a wide range of workers (art. 8).

The Committee recommends that the State party amend the Law on Strikes in line with its obligations under article 8 of the Covenant as well as under the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98). In particular, it recommends that the State party limit the scope of the definition of minimum services, so as to ensure the effective exercise of the right to strike without undue restrictions.

Spain

UN (2018)

The Committee is concerned that the changes made during the 2012 labour reform could negatively influence enjoyment of the right to bargain collectively. It is also concerned by information it has received about the over-zealous application of article 315 (3) of the Criminal Code, which has resulted in the criminal prosecution of workers who have participated in strikes (art. 8).

The Committee recommends that the State party ensure the effectiveness of collective bargaining and of the right to union representation, both in law and in practice, in conformity with article 8 of the Covenant and with the provisions of the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98). It also urges the State party to consider the further revision or derogation of article 315 (3) of the Criminal Code in order to prevent the criminal prosecution of workers who have participated in strikes.

Article 28 – The right of workers’ representatives to protection in the undertaking and facilities to be accorded to them

Austria

ILO - Workers' Representatives Convention, 1971 (No. 135)

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 1 of the Convention. Protection against acts of anti-union discrimination. The Committee requests the Government to continue providing information as to how it is ensured that the grounds on which courts may approve the dismissal of workers' representatives laid down in section 122(1)(iv) and (v) of the Labour Constitution Act (violation of the confidentiality requirement and grave insult against the employer), are subject to a sufficiently narrow interpretation taking into account the concerns raised by the BAK. In addition, the Committee further notes that, in its new observations, the BAK also states that: (i) in practice, employers repeatedly attempt to prevent works council elections, for instance, by dismissing employees who wish to stand as candidates within an enterprise or even by threatening to shut down the entire enterprise if the employees elect a works council; (ii) workers' representatives employed under fixed-term contracts are not covered by the general protections against dismissal set by section 105(3) of the Labour Constitution Act; and (iii) in the opinion of the European Committee of Social Rights of the Council of Europe, section 120(3) of the Labour Constitution Act, according to which employment and dismissal protection for works council members end as early as three months after their membership expires, should be revised. Emphasizing in particular that the protection against anti-union discrimination established by Article 1 of the Convention applies to workers' representatives in the enterprise, regardless of their contractual status, the Committee requests the Government to reply to the observations made by the BAK.

Bosnia and Herzegovina

ILO - Workers' Representatives Convention, 1971 (No. 135)

[Direct Request \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 1 of the Convention. Adequate protection of workers' representatives against acts of discrimination related to their representative functions. The Committee requests the Government to indicate whether this protection also extends to elected workers' representatives other than trade union officers.
- Article 2. Facilities granted to workers' representatives. Brčko District. The Committee therefore requests the Government to indicate whether any other measures are in place or foreseen to give effect to Article 2 of the Convention and if not, to take the necessary measures, including legislative, to grant such facilities to workers' representatives so as to enable them to carry out their functions promptly and efficiently.
- Articles 3, 4 and 5. Relations between trade union representatives and elected representatives. In light of the above, the Committee requests the Government once again to clarify the relationship between trade unions and workers' councils, or any other form of elected representatives, as a matter of law and practice, in the Brčko District.

[Direct Request \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 2. Facilities granted to workers' representatives. Federation of Bosnia and Herzegovina and Republika Srpska - The Committee requests the Government to provide information on the application in practice of this provision, in particular to indicate whether there have been cases in which the employer refused external trade union representatives not employed by the employer to have access to the concerned trade unions.
- Article 2. Facilities granted to workers' representatives. Brčko District. The Committee trusts that the new labour law which is in the process of being adopted will contain explicit provisions granting facilities to workers' representatives and requests the Government to provide a copy of this legislation once adopted.

- Articles 3, 4 and 5. Relations between trade union representatives and elected representatives. In light of the above, the Committee requests the Government once again to clarify the relationship between trade unions and workers' councils, or any other form of elected representatives, in the Brčko District.

Türkiye

ILO - Workers' Representatives Convention, 1971 (No. 135)

[Observation \(CEACR\) - adopted 2020, published 109th ILC session \(2021\)](#)

- Article 1 of the Convention. Massive dismissals of public servants. While noting the updated information provided by the Government in this respect, the Committee once again requests it to provide further details on the handling of cases where workers' representatives allege before the Inquiry Commission or the administrative court that they were subject to a dismissal based on their legitimate trade union activity or affiliation. The Committee notes with regret that no statistical information is available on the number of trade union representatives affected and the number of applications made by them to courts and points out that this information is crucial in order to assess whether the protection of workers' representatives afforded by the Convention is effectively ensured. Noting the detailed and updated information provided by the Government regarding the data processing system established for the purpose of the Inquiry Commission, the Committee urges the Government to take the necessary measures in order to ensure that it allows retrieving information on the number of trade union representatives affected. The Committee once again requests the Government to provide this information and to indicate, in particular, the number of trade union representatives reinstated following the decision of the Commission and the number of appeals to the administrative courts, as well as the outcome of such appeals.

[Observation \(CEACR\) - adopted 2019, published 109th ILC session \(2021\)](#)

- Article 1 of the Convention. Massive dismissals of public servants. While noting the information provided by the Government in this respect, the Committee requests it to provide further details on the handling of cases where workers' representatives allege before the Inquiry Commission or the administrative court that they were subject to a dismissal based on their legitimate trade union activity or affiliation. Noting the detailed information provided by the Government regarding the data processing system established for the purpose of the Inquiry Commission, the Committee urges the Government to take the necessary measures in order to ensure that it allows to retrieve information on the number of trade union representatives affected. The Committee once again requests the Government to provide this information and to indicate, in particular, the number of trade union representatives reinstated following the decision of the Commission and the number of appeals to the administrative courts, as well as the outcome of such appeals.

[Observation \(CEACR\) - adopted 2017, published 107th ILC session \(2018\)](#)

- Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 106th Session, June 2017) Article 1 of the Convention. Massive dismissals of public servants. While duly noting that Turkey was in a state of acute national crisis following the coup attempt, in view of the renewal of the state of emergency for the fifth time on 16 October 2017, the Committee requests the Government to ensure that workers' representatives are not dismissed on the basis of their status or activities as a workers' representative or of their union membership or participation in union activities, in so far as

they act in conformity with existing laws. In case of existence of grounds to believe that a workers' representative has been involved in illegal activities, the Committee requests the Government to ensure that all guarantees of due process are fully afforded. The Committee further requests the Government to provide statistical information on the number of union representatives affected by the dismissals and suspensions based on emergency decrees. As regards the Review Commission, the Committee notes with concern that it will have to deal with a very significant caseload in two years, which is a relatively short period of time. Recalling that compliance with Article 1 of the Convention requires that workers' representatives who consider that their employment has been unjustifiably terminated have access to effective recourse procedures, the Committee requests the Government to ensure that the Review Commission is accessible to all dismissed workers' representatives who desire its review, and that it is endowed with the adequate capacity, resources and time to conduct the review process promptly, impartially and expeditiously. The Committee further requests the Government to ensure that the dismissed workers' representatives do not bear alone the burden of proving that the dismissals were discriminatory, by requiring the employers or the relevant authorities to prove that the decision to dismiss them was justified based on other grounds. Finally, the Committee requests the Government to provide statistical information on the number of applications lodged and processed in the Review Commission and administrative courts by affected workers' representatives and to indicate the outcome of those procedures.

Table of contents

GENERAL OBSERVATIONS.....	3
INTRODUCTION	3
REPORTING OBLIGATIONS	3
SPECIFIC OBSERVATIONS.....	4
GENERAL INTRODUCTION	4
<i>General considerations</i>	4
<i>The sources for the references to international law material</i>	5
UN	6
Committee on Economic, Social and Cultural Rights (CESCR)	6
Other Committees	6
ILO	6
Committee on the Application of Conventions and Recommendations (CEACR)	6
Committee on Freedom of Association (CFA)	7
CoE	7
GENERAL SCOPE – VULNERABLE GROUPS OF WORKERS	7
Germany	7
UN (2018)	7
Serbia.....	7
UN (2022)	7
ARTICLE 2 - RIGHT TO JUST CONDITIONS OF WORK	7
<i>Paragraph 1</i>	7
General considerations	8
Belgium.....	8
UN (2020)	8
Germany	8
UN (2018)	8
Luxembourg	8
ILO - Hours of Work (Industry) Convention, 1919 (No. 1)	8
Republic of Moldova.....	9
ILO - Forty-Hour Week Convention, 1935 (No. 47).....	9
<i>Paragraph 3</i>	9
North Macedonia	9
ILO - Holidays with Pay Convention (Revised), 1970 (No. 132)	9
Republic of Moldova.....	9
ILO - Holidays with Pay Convention (Revised), 1970 (No. 132)	9
<i>Paragraph 5</i>	9
North Macedonia	9
ILO - Weekly Rest (Industry) Convention, 1921 (No. 14).....	9
ARTICLE 4 – FAIR REMUNERATION	10
<i>Paragraph 1</i>	10
Azerbaijan	10
UN: Minimum wage (2021).....	10
Germany	10
UN: Minimum wage (2018).....	10
Serbia (2022)	10
UN: Minimum wage (2022).....	10
ILO - Convention n° 131 Minimum Wage Fixing (1970)	10
Slovakia	11
UN: Minimum wage (2019).....	11
<i>Paragraph 3</i>	11
Albania.....	11
ILO - Equal Remuneration Convention, 1951 (No. 100)	11
Belgium.....	12

UN: Equal pay for work of equal value (2020).....	12
Bulgaria.....	12
UN: Equal pay for work of equal value (2019).....	12
Denmark.....	12
UN: Equal pay for work of equal value (2019).....	12
Estonia.....	13
UN: Equal pay for work of equal value (2019).....	13
Finland.....	13
UN: Equal pay for work of equal value (2021).....	13
Georgia.....	13
ILO - Equal Remuneration Convention, 1951 (No. 100).....	13
Germany.....	14
ILO - Equal Remuneration Convention, 1951 (No. 100).....	14
Greece.....	15
ILO - Equal Remuneration Convention, 1951 (No. 100).....	15
Iceland.....	15
ILO - Equal Remuneration Convention, 1951 (No. 100).....	15
Ireland.....	16
ILO - Equal Remuneration Convention, 1951 (No. 100).....	16
Italy.....	16
ILO - Equal Remuneration Convention, 1951 (No. 100).....	16
Latvia.....	17
ILO - Equal Remuneration Convention, 1951 (No. 100).....	17
Lithuania.....	18
ILO - Equal Remuneration Convention, 1951 (No. 100).....	18
Luxembourg.....	18
ILO - Equal Remuneration Convention, 1951 (No. 100).....	18
Malta.....	19
ILO - Equal Remuneration Convention, 1951 (No. 100).....	19
Montenegro.....	20
ILO - Equal Remuneration Convention, 1951 (No. 100).....	20
North Macedonia.....	20
ILO - Equal Remuneration Convention, 1951 (No. 100).....	20
Republic of Moldova.....	21
UN: Equal pay for work of equal value (2017).....	21
ILO - Equal Remuneration Convention, 1951 (No. 100).....	21
Poland.....	22
ILO - Equal Remuneration Convention, 1951 (No. 100).....	22
Portugal.....	23
ILO - Equal Remuneration Convention, 1951 (No. 100).....	23
Romania.....	24
ILO - Equal Remuneration Convention, 1951 (No. 100).....	24
Slovakia.....	25
ILO - Equal Remuneration Convention, 1951 (No. 100).....	25
Spain.....	25
UN: Equal pay for work of equal value (2018).....	25
ILO - Equal Remuneration Convention, 1951 (No. 100).....	26
Türkiye.....	27
ILO - Equal Remuneration Convention, 1951 (No. 100).....	27
<i>Paragraph 5</i>	27
Albania.....	27
ILO - Convention n° 95 Protection of Wages (1949).....	27
Armenia.....	27
ILO - Convention n° 95 Protection of Wages (1949).....	27
Azerbaijan.....	28
ILO - Convention n° 95 Protection of Wages (1949).....	28
Bulgaria.....	28
ILO - Convention n° 95 Protection of Wages (1949).....	28
Greece.....	29

ILO - Convention n° 95 Protection of Wages (1949)	29
Italy.....	29
ILO - Convention n° 95 Protection of Wages (1949)	29
Poland.....	29
ILO - Convention n° 95 Protection of Wages (1949)	29
Republic of Moldova.....	29
ILO - Convention n° 95 Protection of Wages (1949)	29
Romania.....	30
ILO - Convention n° 95 Protection of Wages (1949)	30
Spain.....	30
ILO - Convention n° 95 Protection of Wages (1949)	30
ARTICLE 5 – THE RIGHT TO ORGANISE	30
Albania.....	30
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	30
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	30
Armenia	31
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	31
Bosnia and Herzegovina.....	31
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	31
ILO - Labour Relations (Public Service) Convention, 1978 (No. 151).....	32
Finland.....	33
Council of Europe - ECHR.....	33
France.....	33
UN (2016)	33
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	33
CoE - ECHR.....	34
Germany	35
ILO - Workers' Representatives Convention, 1971 (No. 135).....	35
Greece	35
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	35
Hungary	36
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	36
CoE - ECHR.....	36
Italy.....	37
CoE - ECHR.....	37
Latvia	38
CoE - ECHR.....	38
Lithuania	39
CoE - ECHR.....	39
Latvia	40
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	40
Malta	40
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	40
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	40
Montenegro	41
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	41
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	41
ILO - CFA case	41
North Macedonia	42
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	42
Republic of Moldova.....	42
UN (2017)	42
Romania.....	42
UN (2014)	42
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	42
Poland.....	43
CoE - ECHR.....	43
Portugal	43
CoE - ECHR.....	43

Spain.....	44
CoE - ECHR.....	44
ARTICLE 6 - THE RIGHT TO BARGAIN COLLECTIVELY	45
<i>General considerations</i>	45
<i>Paragraph 1</i>	45
Austria	45
ILO - Workers' Representatives Convention, 1971 (No. 135).....	45
Bosnia and Herzegovina.....	46
ILO - Workers' Representatives Convention, 1971 (No. 135).....	46
Germany	46
ILO - Workers' Representatives Convention, 1971 (No. 135).....	46
Luxembourg	47
ILO – Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	47
<i>Paragraph 2</i>	47
Albania.....	47
ILO- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	47
ILO- Collective Bargaining Convention, 1981 (No. 154)	48
ILO- Labour Relations (Public Service) Convention, 1978 (No. 151)	48
Armenia	49
ILO- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	49
Belgium.....	49
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	49
Bosnia and Herzegovina.....	50
ILO- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	50
ILO- Collective Bargaining Convention, 1981 (No. 154)	50
Denmark	51
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	51
Estonia.....	52
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	52
France.....	52
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	52
Georgia	52
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	52
Germany	53
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	53
CoE - ECHR.....	53
Greece	54
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	54
Hungary	55
ILO- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	55
ILO - Collective Bargaining Convention, 1981 (No. 154)	55
ILO - CFA case	55
Ireland.....	56
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	56
Italy.....	56
ILO - Labour Relations (Public Service) Convention, 1978 (No. 151).....	56
Lithuania	57
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	57
Montenegro.....	57
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	57
ILO- Labour Relations (Public Service) Convention, 1978 (No. 151)	57
Romania.....	57
ILO - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	57
ILO - CFA case	58
<i>Paragraph 4</i>	59
Albania.....	59
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	59
Armenia	59
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	59

Belgium.....	60
UN (2020)	60
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	60
Bosnia and Herzegovina.....	60
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	60
Bulgaria.....	62
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	62
Estonia.....	62
UN (2019)	62
Germany	63
UN (2018)	63
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	63
CoE - ECHR.....	63
Hungary	64
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	64
Lithuania	64
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	64
Malta	64
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	64
Republic of Moldova.....	65
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	65
Montenegro	65
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	65
North Macedonia	65
ILO - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).....	65
Serbia.....	66
UN (2022)	66
Spain.....	66
UN (2018)	66
ARTICLE 28 – THE RIGHT OF WORKERS’ REPRESENTATIVES TO PROTECTION IN THE UNDERTAKING AND FACILITIES TO BE ACCORDED TO THEM	66
Austria	66
ILO - Workers' Representatives Convention, 1971 (No. 135).....	66
Bosnia and Herzegovina.....	67
ILO - Workers' Representatives Convention, 1971 (No. 135).....	67
Türkiye.....	68
ILO - Workers' Representatives Convention, 1971 (No. 135).....	68
TABLE OF CONTENTS.....	70