



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Fifty-third session**

1 – 19 October 2012

Item 6 of the provisional agenda

**Implementation of articles 21 and 22 of the Convention on the  
Elimination of All Forms of Discrimination against Women**

**Reports by specialized agencies on the implementation of  
the Convention in areas falling within the scope of  
their activities**

**Report by the International Labour Office\***

*Summary*

In accordance with article 22 of the Convention on the Elimination of All Forms of Discrimination against Women, the specialized agencies have been invited to submit to the Committee on the Elimination of Discrimination against Women, at its fifty-third session, reports on the implementation of the Convention in areas falling within the scope of their activities.

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\* This document is available in English only due to its late submission by the ILO.

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## I. Introduction

The provisions of article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women are dealt with in a number of ILO Conventions. Of the 189 Conventions adopted so far, the information in this report relates principally to the following:

- Equal Remuneration Convention, 1951 (No. 100), which has been ratified by 169 member States;
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which has been ratified by 170 member States;
- Workers with Family Responsibilities Convention, 1981 (No. 156), which has been ratified by 41 member States.

Where applicable, reference is made to a number of other Conventions which are relevant to the employment of women:

### *Forced Labour*

- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)

### *Child Labour*

- Minimum Age Convention, 1973 (No. 138)
- Worst Forms of Child Labour Convention, 1999 (No. 182)

### *Freedom of Association*

- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
- Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

### *Employment Policy*

- • Employment Policy Convention, 1964 (No. 122)
- • Human Resources Development Convention, 1975 (No. 142)

### *Maternity Protection*

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

### *Night Work*

- Night Work (Women) Convention (Revised), 1948 (No. 89) [and Protocol]
- Night Work Convention, 1990 (No. 171)

### *Underground Work*

- Underground Work Convention, 1935 (No. 45)

### *Migrant Workers*

- Migration for Employment Convention (Revised), 1949 (No. 97)

- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

#### *Part-time Work*

- Part-Time Work Convention, 1994 (No. 175)

#### *Home Work*

- Home Work Convention, 1996 (No. 177)

#### *Domestic Workers*

- Domestic Workers Convention, 2011 (No. 189)

The application of ratified Conventions is supervised by the ILO Committee of Experts on the Application of Conventions and Recommendations (Committee of Experts), a body of independent experts from around the world, which meets annually. The information submitted in Part II of the present report consists of summaries of observations and direct requests made by the Committee. Observations are comments published in the Committee of Experts' annual report – produced in English, French and Spanish – which are submitted to the Committee on the Application of Standards of the International Labour Conference. Direct requests (produced in English and French – and in the case of Spanish-speaking countries, also in Spanish) are not published in book form, but are made public. At a later date, they are published on the ILO's database of supervisory activities, NORMLEX.

The information below sets out brief references to the much more detailed comments made by the ILO supervisory bodies. The relevant comments of the Committee of Experts referred to in Part II can be found by going to: <http://www.ilo.org/dyn/normlex/en/>

It will be noted that the Committee of Experts in its own comments often includes references to the information submitted by governments to CEDAW or to the other United Nations Treaty Bodies, as well as to reports issued by these bodies.

## **II. Indications concerning the situation of individual countries**

### **Central African Republic**

Among the relevant ILO Conventions, Central African Republic has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 3, 29, 87, 98, 105, 122, 138, 142 and 182.

Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the following:

Convention No. 100: In its 2011 observation, the Committee of Experts recalled Act No. 09.004 issuing the Labour Code, which limited equal wages to jobs involving “equal working conditions, skills and output”. The Committee once again asked the Government to take the necessary steps to amend sections 10 and 222 of Act No. 09.004 issuing the Labour Code so as to provide explicitly for equal remuneration between men and women for work of equal value.

In its 2011 direct request, the Committee asked the Government to indicate the measures taken to facilitate a broader understanding of the principle under the Convention, and in particular of the concept “work of equal value”, by employers, workers and their organizations, magistrates, labour inspectors and other officials.

Noting the Government's statement that statistics on the remuneration of men and women in the public and private sectors were not available, the Committee asked the Government

to indicate the measures taken or envisaged to collect and analyse sex-disaggregated statistics.

The Government has been requested to provide a report for the consideration of the Committee of Experts at its November-December 2012 Session.

Convention No. 111: In its 2011 direct request, the Committee recalled that Act No. 09.004 issuing the Labour Code did not expressly prohibit discrimination on all the grounds enumerated in Article 1(1)(a) of the Convention, and did not cover all stages of employment. The Committee requested the Government to take the necessary measures to ensure that the provisions of the Labour Code prohibited direct and indirect discrimination, on all the grounds set out in the Convention, at all stages of employment, including recruitment.

The Committee noted the Government's indication that the General Regulations of the Public Service severely penalized sexual harassment; as far as the private sector was concerned, this discriminatory practice would be covered by implementing provisions of the Labour Code. The Committee requested the Government to provide a copy of the General Regulations of the Public Service. With respect to the private sector, the Committee trusted that provisions would soon be adopted in order to define and ban sexual harassment (*quid pro quo* and hostile environment). The Government was also asked to provide information on any measures taken or envisaged, in cooperation with the employers' and workers' organizations, to prevent sexual harassment both at national level (awareness-raising campaigns, assistance and advice to victims, etc.) and at the level of the enterprise (internal rules, awareness-raising measures, etc.).

The Committee recalled that section 252 of the Labour Code provided that "a woman may not be kept in a job recognized to be beyond her strength and must be assigned to a suitable job" and that, under section 257, "a joint order of the minister in charge of labour and the minister in charge of public health issued following an opinion from the National Permanent Council on Labour shall determine the nature of work prohibited for women". Noting that, according to the Government, consultations within the National Permanent Council of Labour were planned on the subject of the application of section 252 of the Labour Code, the Committee requested the Government to provide information on the outcome of these consultations and on any implementing text adopted in this respect. The Committee asked the Government once again to specify whether an order determining the nature of work prohibited for women had been adopted pursuant to section 257.

In addition, the Committee requested the Government to provide information on the following: (i) the measures taken to implement a national policy to promote equality of opportunity and treatment in employment and occupation, irrespective of sex, religion, ethnicity or any other prohibited ground; (ii) measures taken under the 2005 gender equality policy to promote and ensure women's equal access to training and employment as well as to raise awareness among women of their rights; and (iii) statistical information on the participation of men and women in vocational training, as well as formal and informal employment and work, including their occupations and levels of responsibility.

The Government has been requested to provide a report for the consideration of the Committee of Experts at its November-December 2012 Session.

### **Chile**

Among the relevant ILO Conventions, Chile has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 3, 29, 45, 87, 98, 103, 105, 122, 138, and 182.

Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the following:

Convention No. 100: In its 2011 observation, the Committee of Experts recalled Act No. 20348 of 2 June 2009 protecting the right to equal remuneration and adding section 62bis to the Labour Code, under which employers were required to comply with the principle of equal remuneration for men and women who performed the same work. The Committee considered that the system established contributed to the persistence of the gender pay gap and of occupational segregation on grounds of gender, with certain jobs being performed basically or exclusively by women, and others by men, in accordance with custom or historical attitudes. The Committee therefore again asked the Government to take the necessary measures to amend section 62bis of the Labour Code.

In its 2011 direct request, the Committee noted the ministerial initiative known as the “second version of the Labour Information System (SIL 2.0)”, which would allow monitoring of the most relevant labour market figures and indicators, disaggregated by sex, age and taking into account disability. It would also provide a basis for observing and following the trajectory of average wages in the economy and of the minimum wage. The Committee asked the Government to provide statistical data that provided a basis for assessing trends in the gender remuneration gap.

The Committee noted the Government’s reference to the IGUALA programme, which was used in mining enterprises, through which measures were taken to eliminate stereotypes, and incentives were provided for the recruitment of women and their promotion to decision-making positions. The Committee asked the Government to continue to provide information on the practical measures adopted in enterprises and in the public sector, including those adopted in the context of the IGUALA programme, with a view to eliminating occupational gender segregation.

The Government’s most recent report was received, and will be examined by the Committee of Experts at its November-December 2012 session.

Convention No. 111: In its 2010 observation, the Committee recalled that in its previous comments it had requested the Government, with a view to granting spouses equal rights, to take steps to amend section 349 of the Code of Commerce, which provided that, unless at the time of the marriage the couple made an agreement choosing the separate property regime, a married woman may not enter into a commercial partnership agreement without special permission from her husband. The Government indicated that the Bill amending the marriage regime (Bulletin No. 1707-18) was undergoing its second constitutional reading in the Constitution, Legislation, Justice and Regulations Commission of the Congress and that in view of the difficulties encountered in approving the Bill, a technical committee had been set up comprising representatives of the opposition, the National Service for Women and the Ministry of Justice and was currently working to achieve consensus on this matter. The Committee requested the Government to continue providing information on the progress made in adopting the Bill amending the marriage regime to ensure that women who had not married under the separate property regime may enter into a commercial partnership agreement without special permission from their husbands.

In its 2010 direct request, the Committee noted that, according to statistics from the Economic Commission for Latin America (ECLAC), the rate of participation in economic activity of women continued to be much lower than for men, at 43.4 per cent and 73.2 per cent respectively. The Committee noted that, in the context of the Programme for Good Labour Practices and Gender Equality, the National Service for Women (SERNAM) aimed to improve the participation of women in the labour market and their position by means of the IGUALA programme. The three key aims of the programme were to: (i) promote non-

discrimination of women in access to the labour market; (ii) promote good labour practices and gender equality within enterprises and public services; and (iii) reduce occupational segregation. The Committee requested the Government to provide information on the impact that the IGUALA programme had had, particularly in reducing occupational segregation, and the impact that the “Equal Opportunities Plan 2000–10” had had in reducing discrimination on the basis of sex in employment and occupation.

According to the “Study concerning the situation of women in the public services: The jobs we have, the jobs we want”, conducted in 2004, although women had occupied nearly 60 per cent of public service posts in 2001, they had occupied only 39.9 per cent of the total managerial posts and had been found in areas with less mobility and in lower paid jobs.

In its previous comments, the Committee had referred to Act No. 20.005, dated 8 March 2005, concerning sexual harassment and pointed out that the protection provided by the Act was more limited than foreseen in the Committee’s general observation of 2002 in terms of the persons to be protected, those to be considered liable, the scope of application and the procedures for protecting victims. With regard to the complaints lodged under provision 7(a) of the Code of Good Labour and Non-discrimination Practice in the Central State Administration, the Government indicated that persons were being appointed to receive complaints, public servants were being informed about sexual harassment and were receiving training, and the services already had procedures in place for the investigation of complaints relating to work-related harassment and sexual harassment and providing sanctions. The Committee once again requested the Government to envisage the possibility of amending Act No. 20005, taking into account its general observation of 2002.

The Government’s most recent report was received, and will be examined by the Committee of Experts at its November-December 2012 session.

Convention No. 103: The Committee noted that what section 139 actually provided was that all pregnant women, during pregnancy and until the sixth month following the birth of the child, were entitled to care including medical checks during pregnancy and following confinement (subsection 1); and that newborn children likewise had this entitlement until the sixth year of their lives (subsection 2). Subsection 3 provided that care during confinement was included in the medical assistance laid down in section 138(b) of DFL No. 1, which specified that curative medical assistance included consultations, diagnostic and surgical examinations and procedures, hospitalization, obstetric care and treatment including the medicines specified in the national form and the other health care and measures. With regard to the costs of these benefits, the Committee noted that section 145 of DFL No. 1 provided that the care established in subsections 1 and 2 of section 139 was free, whereas the care during confinement laid down in subsection 3 of section 139 (including hospitalization) was charged for. It also noted that under sections 158, 159, 160 and 161, the State’s participation in medical costs during confinement had been maintained in respect of beneficiaries whose income exceeded a certain amount (categories C and D). Consequently, some women workers remained under the obligation to share in the cost of medical care received during confinement as laid down in subsection 3 of section 139. The Committee reminded the Government in this connection that the Convention guaranteed *ipso jure*, for all women within its scope fulfilling the requirements, free medical benefits (prenatal care, care during confinement, postnatal care and hospitalization where necessary). It noted with regret that the Government had failed to take the opportunity to adopt regulations to this effect in order to bring its legislation into conformity with this provision of the Convention. It drew the Government’s attention to the need to fulfil the international obligations assumed by Chile by providing in the national legislation for free medical benefits for maternity.

Convention No. 182: In its 2010 direct request, the Committee noted that a national observatory on the sexual exploitation of children for commercial purposes, coordinated by

the National Service for Minors (SENAME) had been established. Furthermore, it noted with interest that, in the course of 2009, 14 projects had been devised for the provision of assistance to victims of sexual exploitation and assisted 974 children and young persons, of whom 772 had been girls and 202, boys. In addition, two new projects had been launched in 2010 allowing a further 110 children to be assisted in two parts of the country particularly affected by commercial sexual exploitation, namely Arica (a town on the border with Peru) and the area to the west of Santiago.

### **Comoros**

Among the relevant ILO Conventions, Comoros has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 87, 89, 98, 105, 122, 138 and 182.

Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the following:

Convention No. 100: In its 2011 observation, the Committee of Experts noted that the Government's report had not been received. It therefore repeated its previous observation, noting that section 97 of the draft revision of the Labour Code stated that all employers must ensure equal remuneration for the same work or for work of equal value. The Committee hoped that the new Labour Code, giving full expression to the principle of equal remuneration for men and women for work of equal value, would be adopted in the near future.

In its 2011 direct request, the Committee noted that the Government's report had not been received. It therefore repeated its previous direct request. With regard to the private sector, the Committee asked the Government to indicate whether objective job evaluation had been undertaken or was being contemplated and, if so, to state the methods used. With regard to the public sector, the Committee encouraged the Government to take the necessary steps for the collection of statistical data on pay for men and women or on the respective numbers of men and women in the various categories of public sector jobs and posts, in order to determine whether wage gaps existed and to eliminate them.

The Government has been requested to provide a report for the consideration of the Committee of Experts at its November-December 2012 Session.

Convention No. 111: In its 2011 observation, the Committee recalled the adoption in June 2008 of the National Policy on Gender Equity and Equality (PNEEG) to ensure equality in employment and occupation. The Committee requested the Government to provide specific information on the awareness-raising and training activities carried out or planned with the social partners, within the framework of the implementation of the PNEEG. The Committee also requested the Government to provide detailed information on the action plan implementing the PNEEG and, more specifically, on the measures taken or envisaged to promote equality of opportunity and treatment between men and women in respect of access to education, vocational training, wage and non-wage employment and working conditions (including remuneration, promotion, and security of tenure).

In its 2011 direct request, the Committee noted with regret that the Government's report did not contain any reply to its previous comments. The Committee therefore repeated its previous request stressing the importance of educational programmes and awareness-raising measures for combating discrimination, particularly gender stereotypes regarding the professional abilities of women and stereotypes regarding the role of men and women in society, as well as for promoting genuine equality of opportunity and treatment. The Committee strongly encouraged the Government to take concrete awareness-raising measures among workers, employers and their organizations, officials responsible for the

enforcement of the equality legislation (labour inspectors, judges, lawyers) and the public at large.

The Committee noted the Government's indication that the strict implementation of Act No. 04-006/A.U of 10 November 2004 ("Public Service Statute"), which provided that recruitment was organized through competitions, ensured the equality of opportunity and treatment in the public service. Recalling that the existence of a competition procedure did not exclude the possibility of discriminatory practices in the course of recruitment or employment, the Committee requested the Government to provide information on any positive measures regarding equal access of women to management positions.

With regard to the draft regulations concerning the work prohibited for women and adolescents, the Committee requested the Government to ensure that any provisions limiting the access of women to certain types of work were not based on stereotypes regarding their professional abilities and their role in society, and that they were strictly limited to maternity protection.

The Government has been requested to provide a report for the consideration of the Committee of Experts at its November-December 2012 Session.

Convention No. 138: In its 2011 direct request, the Committee noted with regret that the Government's report had not been received. It therefore repeated its previous direct request noting that the Government undertook to redouble its efforts to achieve the goals of the "Education for All by 2015" programme, in particular by striving to achieve free, compulsory, and high-quality universal education at the primary level, eliminate all forms of inequality in schooling at the primary and secondary levels, including strengthening the education of girls, and improving the access to, and quality of, secondary education and diversifying the education offered so as to give all young persons the same opportunities to succeed. However, the Committee once again expressed its concern at the low school attendance rate at both primary and secondary levels. The Committee requested the Government to take steps to increase the school attendance rate and reduce the school drop-out rate, especially among girls, in order to prevent children under 15 years of age from working.

[The Committee made similar comments under Convention No. 182.]

The Government has been requested to provide a report for the consideration of the Committee of Experts at its November-December 2012 Session.

### **Equatorial Guinea**

Among the relevant ILO Conventions, Equatorial Guinea has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 87, 98, 103, 105, 138, and 182.

Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the following:

Convention No. 100: In its 2007 direct request, the Committee of Experts expressed the hope that the forthcoming action plan would include measures to address vertical and horizontal occupational segregation with a view to reducing wage inequalities. The Government was asked to provide information on the progress made in implementing the policy and the action plan, and their impact on promoting the principle of the Convention.

The Committee noted the information previously provided concerning the job classification system used in the public sector. It also noted the information on wage determination in the private sector, including Government Decree No. 6 of 1996 fixing minimum wages, and its annexes on minimum wages for the different occupations in various economic sectors

based on a coefficient system and job descriptions. Noting the Government's statement that there was no sex-based discrimination whatsoever in determining wages, the Committee pointed out that the use of wage scales in itself was not sufficient to promote and ensure the application of the principle of equal remuneration for work of equal value. The Government was asked to provide information on the manner in which the Government ensured that no sex-stereotypes regarding the value of particular jobs were introduced in the determination of coefficients and job descriptions.

The Government has been requested to provide a report for the consideration of the Committee of Experts at its November-December 2012 Session.

Convention No. 111: In its 2011 direct request, the Committee noted with regret that the Government's report had not been received. The Committee therefore repeated its previous request noting that Presidential Decree No. 70/2002 of 27 May 2002 established the national policy for the promotion of women (PNPM) and that it was working on a draft plan of action designed to apply this policy. The Committee asked the Government to provide information on any action taken to apply the plan, the results achieved and any difficulties encountered.

The Committee noted the Government's statement on the low qualifications of the workforce and that consequently the focus was placed on vocational training in enterprises. The Government supported training and recruitment for the most vulnerable categories of workers. For example, section 62 of the Act governing national employment policy stated that when enterprises recruited women, young persons, men over 45 years of age or disabled persons, the Government would offer free and preferential vocational training and also a discount on social security contributions. The Committee asked the Government to supply information on the practical application of this provision.

The Government has been requested to provide a report for the consideration of the Committee of Experts at its November-December 2012 Session.

Convention No. 103: In its 2011 direct request, the Committee noted with regret that the Government's report had not been received. It therefore repeated its previous request, recalling the fact that section 6 of the 1984 Social Security Act did not give full effect to Article 2 of the Convention in view of its requirement that protection under the social security scheme for foreign women workers who were not covered by a treaty, convention or agreement was contingent upon reciprocity. The Committee expressed its hope that the Government would make every effort to secure the protection envisaged by the Convention for all women working in the enterprises or occupations covered by Article 1 of the Convention irrespective of their nationality and without any condition of reciprocity, in accordance with the provisions of Article 2 of the Convention.

The Government indicated that an agreement had been reached under which it would be proposed to the competent authority to amend Act No. 8/1992 of 30 April 1992 on state public officials so that any misconduct by pregnant workers gave rise to a disciplinary procedure at the end of the period of maternity leave. However, the Committee noted that no reference was made to this proposal to amend the Act in the Government's latest report. It accordingly expressed its hope that the Government would take all the necessary measures to bring the legislation into full conformity with the Convention and that it would be in a position to provide information on the progress made in relation to the above proposed amendment with a view to establishing a formal prohibition on giving a public servant her notice of dismissal during her absence on maternity leave or at such time that the notice would expire during such absence.

The Government has been requested to provide a report for the consideration of the Committee of Experts at its November-December 2012 Session.

## Serbia

Among the relevant ILO Conventions, Serbia has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 45, 87, 89, 97, 98, 105, 122, 138, 143, 182 and 183.

Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the following:

Convention No. 100: In its 2011 direct request, noting the Government's indication that the gender wage gap was 15 per cent, the Committee of Experts asked the Government to provide detailed statistical information on the earnings of men and women, according to sector or industry, and, if possible, according to occupation, as well as on any measures taken to reduce such gap, in particular through addressing the occupational segregation of women into certain lesser paid occupations and improving their access to better paid jobs and managerial positions.

The Committee recalled that the principle of equal remuneration for work of equal value was set out in section 104 of the Labour Code, which further defined "work of equal value" as "the work for which the same educational level, same working ability, responsibility as well as physical and intellectual works are needed". The Committee asked the Government to consider reviewing the definition of "work of equal value" in section 104 of the Labour Code to ensure that equal remuneration was also provided when the jobs to be compared did not require the same level of education, working ability, responsibility as well as physical and intellectual work, but were nevertheless overall of equal value.

Convention No. 111: In its 2011 observation the Committee recalled the adoption of the Act on the Prohibition of Discrimination (Official Gazette No. 22/09) in April 2009. The Committee asked the Government to provide information on the measures taken to implement the anti-discrimination legislation. Furthermore, recalling the importance of concrete and practical measures to promote awareness and understanding of the non-discrimination legislation among workers and employers, their organizations, labour inspectors and judges as well as the public at large, the Committee once again requested the Government to provide information on the promotional and training activities undertaken on the anti-discrimination legislation and on the number, nature and outcome of employment discrimination cases addressed by the labour inspectorate and the Commissioner for Equality and the judiciary, including on remedies provided and sanctions imposed.

In its 2011 direct request, the Committee requested the Government to provide information on the measures taken to increase access of women to formal employment, including self-employment and employment with career opportunities and better remuneration, through national employment plans and strategies; and to address the stereotypes and assumptions regarding women's aspirations and capabilities, as well as regarding their suitability for certain jobs, and to promote equal sharing of family responsibilities.

The Committee recalled that section 21 of the Labour Code prohibited sexual harassment, but defined it without clearly covering quid pro quo harassment and that persons bringing a complaint to the courts bore the burden of proof. On the other hand, the Committee had pointed out that the Law on the Prohibition of Discrimination, while not specifically referring to or defining sexual harassment, prohibited "blackmail and harassment relating to gender" (section 20) and provided that the burden of proof shifted from the plaintiff to the defendant, once the plaintiff had "proved the likelihood" that such act had been committed. The Committee requested the Government to consider reviewing the provisions on sexual harassment in the Labour Code to ensure that the key elements of the definition of quid pro quo sexual harassment were included. The Committee also requested the Government to

indicate whether and how sexual harassment was covered by the Law on Gender Equality of 2009.

Convention No. 89: In its 2009 direct request, the Committee noted that under the Labour Code of 2005, there was no general prohibition against women's night work except for young workers under 18 years of age (section 88) and pregnant women during the last eight weeks of pregnancy but also during the first 32 weeks of pregnancy, if such work would be detrimental for their health or the health of their child, as certified by a competent medical authority (section 90). The Committee therefore concluded that the Convention was no longer implemented in either law or practice.

The Committee once again invited the Government to give favourable consideration to the ratification of Convention No. 171.

Convention No. 183: The Government's first report was received and will be examined by the Committee of Experts at its November-December 2012 session.

### **Togo**

Among the relevant ILO Conventions, Togo has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 87, 98, 105, 138, 143 and 182.

Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the following:

Convention No. 100: In its 2011 direct request, the Committee of Experts noted the Government's indication that during collective bargaining, labour inspectors governed mixed joint committees as moderators, and monitor compliance with the principle of equal remuneration. Noting the Government's indication that the wage scales negotiated by social partners and annexed to collective agreements did not contain any differences in remuneration between men and women, the Committee recalled that fixing identical wages for men and women was insufficient to ensure full application of the principle of the Convention. The Committee asked the Government to indicate the measures taken to ensure that the methods used in the negotiation of collective agreements which fixed minimum wages were free from gender bias.

The Committee asked the Government to provide information on specific measures taken to reduce the gender wage gap, including under the national policy on gender equity and gender equality, and particularly measures taken to address the underlying causes of wage inequalities such as occupational segregation between men and women and gender stereotypes regarding career aspirations and professional capacities of women, as well as regarding the role of men and women in society.

The Committee recalled that section 118 of the Labour Code of 2006 provided for equal remuneration for men and women for work of equal value and that section 117 defined "salary" according to Article 1(a) of the Convention. With respect to the application of these provisions in practice, the Committee noted that labour inspectors who monitored their application had not detected any cases nor had they received any complaints concerning equal remuneration. Noting that a programme had been launched to modernise the administration of work, the Committee hoped that the Government would take this opportunity to organize training and awareness-raising activities for labour inspectors and other labour officers on the principle of the Convention and, in particular, on the concept of "work of equal value". The Committee also hoped that the Government would soon be able to provide statistical data, disaggregated by sex, on the distribution of men and women in employment and occupation, both in the public and private sectors, by occupation and sector of activity, if possible, and on their respective levels of earnings.

Convention No. 111: In its 2011 direct request, the Committee recalled that the Personal and Family Code contained discriminatory provisions with regard to women, including through the notion of the “head of the family”. The Committee noted the Government’s indication that the committee responsible for the revision of the Personal and Family Code had completed its work, and that the draft revised Code would be submitted to the Parliament once it had been adopted by the Government. The Committee asked the Government to adopt the revised Personal and Family Code in the near future, and to ensure that as a result it no longer contained discriminatory provisions with regard to women.

In its previous comments, the Committee had noted that section 40 of the Labour Code of 2006 did not cover hostile working environment sexual harassment. The Committee once again asked the Government to take the necessary measures in order to amend section 40 of the Labour Code in order to include an explicit prohibition of hostile environment sexual harassment. The Committee encouraged the Government to take measures to prevent sexual harassment in employment and occupation, including through awareness raising activities for employers, workers and their organizations.

The Committee welcomed the measures taken by the Government to promote equality between men and women, including the adoption of the National Policy on Gender Equity and Equality (PNEEG), the creation of a specific ministry in charge of the promotion of women, the creation of gender focal points in ministerial departments, the carrying out of a study on gender inequalities and the elaboration of a national strategy on gender integration as well as measures taken to increase women’s participation in the political and decision-making process. The Committee asked the Government to provide information on the following points: (i) the implementation of the PNEEG; (ii) the results of the study carried out on gender inequalities and the measures taken or envisaged to follow-up on the study; and (iii) the activities organized by the Ministry of Social Affairs and the Promotion of Women and by gender focal points in ministerial departments.

The Committee noted the measures taken by the Government to promote girls’ access to education, including through waiving enrolment fees in pre-school and primary public schools; reducing enrolment fees in secondary public schools; providing scholarships and awards for excellence; eliminating sexist stereotypes in texts of school books at the elementary level; applying parity in recruitment and launching a programme on basic education and gender equity. The Committee asked the Government to indicate measures taken to encourage girls to study in fields traditionally dominated by men.

In its previous comments, the Committee noted that women had been underrepresented in the public service, in particular in levels A1 and A2 and in decision-making posts. Noting that the Government’s report did not contain the information requested, the Committee asked the Government take measures in order to promote upward mobility of women and their access to a wider variety of jobs in the public sector, including in higher level posts and in decision-making posts in the public service.

Convention No. 182: In its 2010 observation, the Committee noted the International Trade Union Confederation’s (ITUC) communication reporting conditions of work which were hazardous and/or similar to forced labour encountered by many children engaged as domestic workers. According to the ITUC’s allegations, there were thousands of child domestic workers in Togo, the large majority of whom were girls from poor and rural areas of the country, and who performed various potentially hazardous household tasks in private homes and may also be called upon to sell products in the street or in markets on behalf of their employers. These children worked very long days (ten hours or more), frequently had no rest days and received no or very little remuneration. They lived in the house of their employers, were dependent upon the latter, and were isolated from their families, which made them vulnerable to abuse and forced labour. Child domestic workers were also

regularly subjected to verbal and physical violence and to sexual abuse, and were often deprived of education opportunities. The ITUC's communication also referred to a survey carried out in Togo between 2007 and 2008 of 61 girl domestic workers, which showed that the average age at which they entered into domestic service was nine.

The Committee observed that child domestic work performed under conditions similar to forced labour or under hazardous conditions remained a concern in practice. It reminded the Government that, under the terms of Article 3(a) and (d) of the Convention, work or employment of children under 18 years of age under conditions similar to slavery or under hazardous conditions were some of the worst forms of child labour and that, by virtue of Article 1 of the Convention, immediate and effective measures shall be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. The Committee therefore requested the Government to take immediate and effective measures to ensure that children under 18 years of age engaged in domestic work under conditions similar to slavery or under hazardous conditions benefited from the protection afforded by the national legislation.

The Government has been requested to provide a report for the consideration of the Committee of Experts at its November-December 2012 Session.

### **Turkmenistan**

Among the relevant ILO Conventions, Turkmenistan has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 87, 98, 105 and 182.

Comments made by the ILO supervisory bodies. The pending comments of the ILO Committee of Experts relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to the following:

Convention No. 100: In its 2010 direct request, the Committee of Experts noted that pursuant to the Labour Code of 18 April 2009, "no restriction with respect to employment rights is permitted" on the basis of various enumerated grounds, including sex (section 7). It further noted that workers were entitled to "equal pay for equal work without discrimination" (section 13(1)(5)) and that the employer shall ensure that workers receive "equal pay for work of equal value" (section 14(2)(6)). In addition, section 12(2) of Act No. 154 of 14 December 2007 on state guarantees for equal rights for women provided that the State shall ensure equal remuneration for men and women for work of equal value. Finally, the Committee noted the Government's indication that the principle of equal remuneration for men and women for work of equal value applied to civil servants. The Committee asked the Government to provide the following clarifications: (i) why section 13(1)(5) of the Labour Code referred to "equal work" rather than "work of equal value" as in section 14(2)(6) and Act No. 154 of 2007; (ii) what specific elements were covered by the term "remuneration" used in sections 13 and 14; (iii) whether any categories of workers were excluded from the scope of the Labour Code under section 5(6)(3) and, if so, how it was ensured that the principle of equal remuneration for work of equal value was applied to these workers; and (iv) the legal provisions specifying the application of the principle of the Convention to civil servants.

The Committee noted that rates of remuneration were determined by the employment contract, collective agreements or wage agreements (section 116 of the Labour Code). It also noted that, in accordance with section 113 of the Labour Code, the remuneration of these workers depended on his or her qualifications, the nature, complexity and intensity of his or her work and working conditions as well as the quantity and quality of work done, and cannot be lower than the established minimum wage. The Committee asked the Government to indicate how it was ensured that the criteria used to determine the rates of

remuneration, and their weighting, were free from gender bias and whether any measures had been taken to promote the use of objective job evaluation methods.

Convention No. 111: In its 2010 direct request, the Committee noted that the Constitution provided for equality of individuals and citizens before the law regardless of their nationality, race, gender, origin, property and official status, place of residence, language, religion, political beliefs, party affiliation or lack of affiliation to any party. It also noted that section 7(1) of the Labour Code provided that “no restriction with respect to employment rights or the granting of any advantages is permitted on the basis of nationality, race, sex, origin, property or employment status, place of residence, language, attitude to religion, political convictions, party affiliation or non-membership of any party, or other factors unrelated to the abilities and performance of workers”. The Committee observed however that it was unclear whether section 7(1) covered indirect discrimination. With respect to the non-discrimination provisions of the Labour Code, the Committee requested the Government to provide clarifications on the following points: (i) whether the protection of workers against discrimination applied to all aspects of employment, including access to vocational training, access to employment (recruitment) and to particular occupations, and terms and conditions of employment; (ii) whether the non-discrimination provisions applied to all workers, including civil servants; and (iii) how the protection of workers against indirect discrimination was ensured.

The Committee noted that, according to the Act No. 154 of 14 December 2007 on state guarantees for equal rights for women, any discrimination on the basis of sex was prohibited (section 12(1)) and women had the same rights as men with respect to work protection, employment, entrepreneurship, access to posts, equal remuneration for work of equal value, occupational safety and health, promotion, training and family responsibilities (section 12(2)).

The Committee noted that the statistics on education, vocational training and employment provided by the Government were not disaggregated by sex, and therefore did not enable the Committee to have a clear overview of the situation of women in these areas. The Committee therefore requested the Government to provide detailed information on the situation of men and women with respect to their participation in employment and occupation. This information should include statistical data on the following: (i) the participation of men and women in the various disciplines of secondary and higher education, vocational training and other forms of skills development; (ii) employment and unemployment of men and women; and (iii) the participation of men and women in employment in the various sectors of the economy, occupations and levels of responsibility. The Government was also requested to provide information on the practical measures taken to combat sexist stereotypes relating to the roles and skills of men and women in employment and in the society and to effectively promote access by women to a wider range of occupations, including awareness-raising activities and educational programmes regarding gender equality.

The Committee noted that Chapter I of Part XIII of the Labour Code contained measures applying to persons with family responsibilities, a number of which concerned only women workers with children (prohibition of overtime, night work, work during week-ends and public holidays; and travel restrictions). While noting that such provisions may be well-intentioned and seen as corresponding to the needs of women who continued to bear the unequal burden of family responsibilities, the Committee considered that they may also raise issues with respect to equality of opportunity and treatment. Such provisions may reinforce and prolong social attitudes and stereotypes that hindered the realization of gender equality, while, at the same time, excluding men from certain rights and benefits. The Committee requested the Government to elaborate on whether any measures were being

taken to ensure that arrangements and entitlements aimed at reconciling work and family responsibilities were made available to women and men on an equal footing

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