



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

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## Committee on the Elimination of Discrimination against Women

### Fifty-fifth 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-fifth session, reports on the implementation of the Convention in areas falling within the scope of their activities.

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\* CEDAW/C/55/1  
\*\* Late submission

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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 171 member States;
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which has been ratified by 172 member States;
- Workers with Family Responsibilities Convention, 1981 (No. 156), which has been ratified by 43 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 tripartite 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 and to other United Nations Treaty or Charter-based Bodies, as well as to reports issued by these bodies.

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

### **Afghanistan**

Among the relevant ILO Conventions, Afghanistan has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 105, 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 2012 observation, the Committee of Experts noted the Government's indication that a tripartite consultative group had met to discuss labour law reform, with a view to making working conditions better for all, including women, and that draft Regulations had been finalized and sent to the Ministry of Justice. Noting that the Government's report provided no information regarding whether the tripartite consultative group had addressed specifically the issue of equal remuneration for men and women for work of equal value, the Committee asked the Government to provide information on the activities and recommendations of the tripartite consultative group with respect to the principle of equal remuneration for men and women for work of equal value and on reducing the wage gap.

The Committee noted that the Government's report was substantially the same as its previous report, and therefore the Committee repeated its previous observation as follows.

The Committee noted the Government's indication that Afghanistan's Decent Work Country Programme (DWCP) covered the principle of equal remuneration for work of

equal value. The Committee asked the Government to take steps to adopt legislative provisions explicitly providing for equal remuneration between men and women for work of equal value.

The Committee welcomed the Government's efforts to continue raising awareness of the principle of the Convention through various measures including organizing training programmes for government officials, workers, employers, judges and civil society, disseminating material on equal remuneration for women and men and organizing workshops for the gender units of ministries on women workers' rights under the Labour Law.

**Convention No. 111:** In its 2012 observation, with regard to section 9 of the Labour Law, which provided for the prohibition of discrimination in a very general manner, the Committee of Experts asked the Government to ensure that in the process of labour law reform, direct and indirect discrimination was expressly defined and prohibited, covering all the grounds listed in Article 1(1)(a) of the Convention, as well as any other grounds determined in consultation with employers' and workers' organizations, in accordance with Article 1(1)(b) of the Convention, covering all aspects of employment and occupation.

Concerning civil service, the Committee again asked the Government to clarify whether the provisions of the Labour Law were applicable to civil servants covered under the Civil Servants Law and, if so, to specify the interrelationship between section 9 of the Labour Law and section 10(2) of the Civil Servants Law, which prohibited discrimination in recruitment based on the grounds of sex, ethnicity, religion, disability and physical deformity.

The Committee recalled the Government's previous indication that the list of physically arduous or harmful work prohibited for women to be established under section 120 of the Labour Law had still been under preparation. The Committee again urged the Government to ensure that, in the process of the labour law reform, any restrictions on the work that could be done by women were strictly limited to maternity protection.

In its 2012 direct request, the Committee recalled that, under the Decent Work Country Programme (DWCP), the ILO provided technical assistance in a range of areas, including in vocational training, employment services and career guidance and counseling (Decent Work Country Programme 2010–15, page 8). The Committee noted the Government's indication that it continued to strengthen efforts to maximize access of women and girls to educational opportunities at all levels and to increase access to vocational training. The Committee asked the Government to step up its efforts to encourage girls' and women's access to education at all levels, and to enhance their participation in a wide range of training programmes, including those in which men have traditionally predominated. It also asked the Government to provide information on any progress made with respect to the design and implementation of the affirmative action policy in education envisaged by the National Action Plan for the Women of Afghanistan (NAPWA) 2007–17.

With regard to the public service, the Committee noted the Government's indication in general terms that the gender units were active in the ministries, and that steps would be taken to enhance their capacities. The Committee again asked the Government to provide further information on the role and activities of the gender units in the ministries, in particular how they promoted equal opportunities for men and women within the public sector. The Committee also asked the Government to provide specific information on how the priority given to women in vacancies announced by the Civil Service Commission was reflected in women's representation in the public service, including in management positions.

**Convention No.142:** In its 2009 direct request, the Committee noted that, amongst other things, the Afghan National Development Strategy 2008–13 included the target of achieving a net enrolment rate in primary schools by girls and boys of at least 60 per cent

and 75 per cent respectively, by 2010. The Committee invited the Government to report on the implementation of the National Skills Development Programme and the operation of a National Vocational Education and Training Authority. It also asked the Government to provide information on the implementation of the measures undertaken in the framework of the National Employment Strategy and the Afghanistan National Development Strategy to develop comprehensive and coordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services.

### **Bosnia Herzegovina**

Among the relevant ILO Conventions, Bosnia Herzegovina has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 45, 87, 89, 97, 98, 105, 122, 138, 143, 156, 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, the Committee of Experts recalled that the Government was in the process of harmonizing state and entity legislation with the equal remuneration for work of equal value provision of the Law on Gender Equality, 2003. It also recalled that the definition of “equal value” as set out in the legislation of the Brcko District and in the draft amendments of the Federation of Bosnia and Herzegovina (FBiH) did not reflect fully the principle established in the Convention. The Committee asked the Government to ensure that the definition of “work of equal value” in the amendments to the Labour Law of the FBiH was revised so as to give full expression to the concept of “work of equal value” as set out in the Convention, and also to consider adding a definition of “remuneration” in the draft to make it clear that it included the “ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker’s employment” (Article 1(a) of the Convention).

The Committee also recalled that in the legislation in the Brcko District, “work of equal value” was defined as work requiring the same level of qualification, the same capacity to work, and the same level of responsibility and of physical and intellectual work. It noted the Government’s indication that section 4 of the Labour Law of the Brcko District prohibited any kind of discrimination including on the basis of sex, and there were no differences in awarding wages on the basis of gender. It also noted the Government’s indication that according to section 90(3) of the Labour Law of the Republika Srpska, “work of equal value” referred to work that required the same level of education, the same ability to work, responsibility and physical or intellectual work, and that section 5 of the Labour Law of the Republika Srpska prohibited discrimination based on gender in the realization of labour rights. The Committee considered that only a prohibition of discrimination based on gender, while important, was not sufficient to give effect to the Convention, as this did not capture the concept of “work of equal value”. The Committee therefore asked the Government to take steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value in the legislation of the Brcko District and the Republika Srpska.

With regard to collective agreements, the Committee asked the Government to take steps, in collaboration with the employers’ and workers’ organizations, to harmonize collective agreements with section 8 of the Law on Gender Equality, and to encourage the incorporation of the principle of the Convention into collective agreements.

The Committee noted that the Government of the FBiH had not taken specific action to promote the use of objective methods for assessing work in the public and private sectors.

The Committee encouraged the Government, with the cooperation of workers' and employers' organizations, to take steps towards the development and promotion of objective job evaluation methods in the public and private sectors.

Convention No. 111: In its 2012 observation, the Committee of Experts noted with interest the adoption of the Prohibition of Discrimination Act of Bosnia and Herzegovina (BiH) (No. 59/09, entry into force 5 August 2009). The Act defined and prohibited direct and indirect discrimination, including in employment, entrepreneurship, education and training, on a range of grounds, whether real or assumed, namely race, skin colour, language, religion, ethnic affiliation, national or social origin, connection to a national minority, political or any other persuasion, property, membership in trade union or other association, education, social status and sex, sexual expression or sexual orientation (sections 2, 3 and 6). The Act also included harassment, sexual harassment, mobbing, assistance and incitement to discriminate as forms of discrimination (section 4). The Committee noted that "employment" under the Act included work and working conditions, including access to employment, occupation and self-employment, working conditions, remuneration, promotions and dismissals; "training" included all types and all levels of professional training, additional qualifications and requalifications, including gaining practical working experience (section 6). The mandate of the Ombud for Human Rights included receiving individual and group complaints related to discrimination, collecting and analysing statistical data on discrimination cases, conducting surveys on discrimination, and improving policies and practices aimed at ensuring equal treatment (section 7). A claim could also be brought before the courts (sections 11 and 12). The Ministry for Human Rights and Refugees was to keep a database of discrimination cases (section 8). The Act also provided for the shifting of the burden of proof and protection against retaliation (sections 15 and 18). The Committee asked the Government to provide information on the practical application of the Prohibition of Discrimination Act.

In its 2012 direct request, the Committee recalled the various initiatives being taken, including by the Gender Equality Agency and the gender centres. The Committee noted the Government's indication that a five-year financial programme for the implementation of the BiH Gender Action Plan (2009–14) had been set up, which aimed at building capacity for the Gender Equality Agency, gender centres and governmental institutions, strengthening partnership between civil society organizations and governmental institutions, and developing mechanisms for monitoring the progress of gender integration in annual plans and programmes. The Committee also noted the Government's indication that under a Strategy for Employment in BiH for the period of 2010–14, raising the employment rate of women was envisaged. A project had been launched, which focused on training of women aged over 40 years for active participation in the labour market. The Government also indicated that the employment strategies in the Federation of BiH and the Republika Srpska also focused on the employment of women. The Committee asked the Government to continue to provide information on the specific measures taken to increase access of women to the labour market.

Convention No. 122: In its 2011 direct request, the Committee noted that one of the targets of the Employment Strategy 2010–14 for Bosnia and Herzegovina was increasing the female employment rate by 2.5 percentage points annually, while the Employment Strategy 2011–15 for the Republika Srpska aimed at increasing female employment from 38.3 per cent to 46 per cent. The Committee invited the Government to provide information on the results of measures taken by the entities of the country to increase the employment participation rate of women.

Convention No. 156: In its 2011 direct request, the Committee recalled its previous comments noting section 8 of the Gender Equality Law of 2003 which protected workers with family responsibilities against discrimination. It noted the Government's indication that the Council of Ministers of Bosnia and Herzegovina had adopted in September 2006 a

Gender Action Plan as a five-year strategy of gender mainstreaming. The Committee once again asked the Government to provide information on the legal and practical measures taken at the federal level and the level of the entities to enable persons with family responsibilities to engage in employment without being discriminated against and to do so without conflict between their employment and family responsibilities, including the practical application of section 8 of the Gender Equality Law.

The Committee recalled sections 55 to 62 of the Labour Law of the Federation of Bosnia and Herzegovina, which provided leave entitlements for workers with family responsibilities. In particular, it recalled section 56 of the Labour Law of the Federation of Bosnia and Herzegovina, which gave a father or adoptive parent entitlement to the right to maternity leave in the case of the death of the mother, abandonment of the child by the mother, or if she was prevented from using the rights for justified reasons. It also recalled the provisions of the Labour Law of the Federation of Bosnia and Herzegovina and the Labour Law of the Republika Srpska providing for paid leave of absence from work in the case of serious disease or the death of a family or household member, or the confinement of the spouse. The Committee again asked the Government to indicate what would be considered “justified reasons” for the father or adoptive parent to be entitled to paid leave to take care of a child. It also asked the Government to provide information on any measures taken or envisaged towards collecting statistical information disaggregated by sex on the number of male and female workers with family responsibilities who had taken remunerated leave to care for a child.

The Committee noted the Government’s indication that the Gender Centre at the entity level and the Agency for Gender Equality at the federal level were in charge of gender-based research publishing brochures and information for the public. The Committee asked the Government to provide specific information on the action taken by the authorities including the Gender Centre and the Agency for Gender Equality in order to promote broader public understanding of various aspects of employment of workers with family responsibilities and the need for a more equitable sharing of family responsibilities between men and women. The Committee also asked the Government to provide information on the programmes undertaken to address stereotyping with respect to family responsibilities.

The Committee noted the Government’s indication that the Labour Law of the Federation of Bosnia and Herzegovina ensured access of all employees (both men and women) to education, training and development for work based on their abilities and needs. Recalling the importance of improving the employment possibilities and job security of workers with family responsibilities through strengthening their occupational qualifications, the Committee asked the Government to provide information on any practical and legal measures taken or envisaged to take into account the specific needs of male and female workers with family responsibilities in order to become and remain integrated in the labour force, as well as to re-enter the labour force after an absence due to family responsibilities.

### **Cape Verde**

Among the relevant ILO Conventions, Cape Verde has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 87, 98, 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 2012 observation, the Committee of Experts noted that the Government merely reiterated the information provided in its previous report. The Committee recalled that article 61 of the Constitution, which provided for the principle of equal remuneration for equal work, and that section 16 of the Labour Code, which provided that all workers had the right to fair remuneration according to the nature, quantity and

quality of work, were insufficient to ensure the full application of the principle of the Convention because they did not encompass the concept of “equal value”, and might therefore hinder progress in eliminating gender-based pay discrimination. Moreover, while criteria such as quality and quantity of work might be used to determine the level of earnings, the use of only these criteria was likely to have the effect of impeding an objective evaluation of the work performed by men and women on the basis of a wider range of criteria which were free from gender bias. The Committee asked the Government to take steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, and recalled that such provisions should not only cover situations where men and women were performing the same or similar work but also situations where they carried out work that was of an entirely different nature but was nevertheless of equal value. Noting that section 15(1)(b) of the Labour Code provided that equity at work includes the right to receive special compensation; a compensation which was not allocated to all workers, but which is based, among other grounds, on sex, the Committee asked the Government to indicate the manner in which this provision was implemented in practice.

In its 2012 direct request, the Committee requested the Government to provide information on the concrete action carried out by the labour inspectors as well as the Institute on the Condition of Women (ICF) with respect to equality and non-discrimination in employment and occupation and equal remuneration, and the impact thereof. The Committee further asked the Government to continue to provide information on the measures taken to address structural problems such as occupational sex segregation and with respect to access to education and vocational training for women.

**Convention No. 111:** In its 2012 direct request, the Committee of Experts noted the Government’s indication that, pending the adoption of relevant specific legislation, the provisions of the Labour Code (Legislative Decree No. 5/2007) were applicable to rural workers and labour-intensive activities. The Committee requested the Government to provide information on any development in this regard.

The Committee recalled that in its previous comments it had noted the observations from the Cape Verde Confederation of Free Trade Unions, indicating that foreign workers from Senegal, Guinea-Bissau, Mauritania, Gambia and Guinea had received salaries considerably lower than those of national workers. The Committee noted the Government’s indication that section 15(1) of the Labour Code prohibited discrimination in remuneration while subsection (2) granted the same protection provided for national workers to foreign workers. The Committee requested the Government to indicate the manner in which concrete protection was granted to foreign workers against discrimination on the grounds enumerated in the Convention.

The Committee noted that the Cape Verdean Institute for Gender Equality had elaborated a programme for 2011–12 which included awareness-raising campaigns. The Government also referred to a small enterprises financing project that had benefited particularly young women. The Committee noted that section 9 of Resolution No. 26/2010 had established that public enterprises should adopt gender equality plans as well as take measures for the conciliation of work and family responsibilities, and that Resolution No. 124/VI/2010 by which the country had ratified the African Youth Charter, provided for the importance of eliminating discrimination against young women. The Committee requested the Government to continue to provide information on measures adopted, as well as the impact of such measures in the employment rate and working conditions of both men and women.

The Committee recalled the scope of section 410 of the Labour Code and of Act No. 84/VII/2011 with respect to sexual harassment. The Committee noted that the Government acknowledged that Act No. 84/VII/2011 only provided for sexual harassment by the employer and not by other employees. While noting that section 410(3) of the Labour Code prohibited all persons from encouraging sexual harassment, the Committee noted that this

provision did not appear to prohibit those other than employers and their agents from committing harassment. The Committee, therefore, asked the Government to take steps to ensure that workers were protected against sexual harassment in employment and occupation, not only by employers but also by other workers. The Committee once again asked the Government to provide specific information on how the relevant provisions of the Labour Code and Act No. 84/VII/2011 had been applied in practice.

The Committee requested the Government once again to take the necessary measures to provide labour inspectors with adequate training concerning the principle set out in the Convention and to provide information on the concrete action taken by them with respect to equality in employment and occupation and non-discrimination, and the sanctions imposed.

With regard to statistical information, the Committee noted the Government's indication that collection of statistical data was not possible due to lack of material and human resources.

### **Cuba**

Among the relevant ILO Conventions, Cuba has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 3, 29, 45, 87, 98, 105, 122, 138, and 142.

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 2012 observation, the Committee of Experts recalled that section 99 of the 1984 Labour Code provided that workers should receive equal pay for equal work without distinction whatsoever, including on the basis of sex, and that it was narrower than the principle established in the Convention. The Committee noted that the Government repeated that the established criteria were still in force, that the legislation covered gender equality and that the provisions of the Convention were applied in practice. The Committee asked the Government to give full legislative expression to the principle of equal remuneration for work of equal value so that it covered not only situations where men and women perform the same work but also encompasses work that was of an entirely different nature, which is nevertheless of equal value.

In its 2012 direct request, the Committee noted the Government's statement that according to the General Regulation on the Organization of Wages (Resolution No. 27/2006), the fundamental elements of the wage system included scale of complexity, job descriptors, wage rates, additional payments, and payment forms and systems (section 8). The Committee nonetheless observed that the Government provided no information on how the job descriptors were applied in practice, nor did it indicate whether different jobs had been included in the same complexity group. Furthermore, it provided no specific examples of objective job evaluations carried out in practice that would enable the Committee to assess whether or not the system was in keeping with the principle of the Convention. The Committee again asked the Government to provide information on the manner in which the system of job descriptors was applied together with specific examples of objective job evaluations conducted in various enterprises or sectors.

The Committee noted that according to the Government, the National Labour Inspection Office had detected no infringements linked to the application of the Convention. The Committee requested the Government to indicate the measures implemented to train and raise awareness among labour inspectors about discrimination in employment and occupation, and particularly the principle of the Convention.

Convention No. 111: In its 2012 direct request, concerning sexual harassment, the Committee of Experts noted the Government's statement that existing mechanisms were not limited to criminal proceedings and its reference to the procedure for filing complaints

with the Office of the Prosecutor-General. The Committee asked the Government to clarify whether both quid pro quo and hostile environment harassment claims could be lodged before the Office of the Prosecutor-General.

Observing that the Government did not refer to awareness-raising measures relating specifically to gender equality in employment and occupation, the Committee requested the Government to provide information in this regard. The Committee also requested the Government to indicate what proportion of complaints examined by the Office of the Prosecutor-General referred to cases of discrimination in employment and occupation, the procedure applicable to such complaints and the decisions adopted in this respect.

### **Democratic Republic of the Congo**

Among the relevant ILO Conventions, Democratic Republic of the Congo has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 87, 89, 98, 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 2012 observation, the Committee of Experts noted that the Government's report had not been received. It therefore repeated its previous observation, recalling that section 86 of the Labour Code, which provided that with equal conditions of work, vocational qualifications and output, the salary was equal for all workers, irrespective of origin, sex or age, was not in conformity with the Convention. It recalled its previous concerns that the Labour Code currently provided for equality only in respect of the salary (section 86) and accommodation and accommodation allowances (section 138), and that the term "remuneration" as defined in section 7(h) included additional payments, such as commissions, payments in kind, bonuses, etc., whereas it was provided that transport allowances, family allowances, accommodation and accommodation allowances and health care were not considered part of the remuneration. The Committee once again asked the Government to take the necessary steps to bring the legislation into line with the Convention with a view to ensuring that the principle of equal remuneration for men and women was fully reflected in the legislation and that it had applies to all the elements of remuneration, as defined in Article 1(a) of the Convention.

In its 2012 direct request, the Committee repeated its previous request, recalling a draft decree concerning the conditions of work for women, which included a section stating that for the same work or work of equal value, remuneration for hours of work or supplementary hours for women workers shall be the same as their male counterparts (section 9). The Committee noted that such a provision, while incorporating the concept of work of equal value, would not appear sufficient to ensure that all aspects of remuneration had to be provided to men and women on an equal basis, because it was specifically limited to remuneration for "hours of work and supplementary hours". The Committee asked the Government to ensure that section 9 of the draft decree was revised to bring it into line with the Convention, along with section 86 of the Labour Code.

The Committee recalled its previous comments concerning section 21(3) of Legislative Ordinance No. 88-056 under which a female magistrate was not entitled to family allowances if her spouse carried on an activity remunerated by the State entitling him to allowances which were not less than those of a magistrate. In this regard, the Committee indicated that married couples could be given the opportunity to choose which spouse would receive the benefit. Recalling that the Government had indicated its intention to amend section 21(3), the Committee asked the Government to provide information on the progress made in this regard.

The Committee noted Decree No. 08/040 of 30 April 2008 fixing the inter-professional guaranteed minimum wage, the minimum family allowance, and accommodation allowance. The Decree established minimum wage rates according to levels of qualification. The Committee asked the Government to indicate whether the competent authorities had identified and addressed any cases of non-payment of these wage rates, and the extent to which these cases concerned women workers.

The Committee noted that the National Labour Council had not yet adopted a general job classification as provided for in section 90 of the Labour Code. The Committee asked the Government to ensure that any future general job classification was established on the basis of objective criteria.

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

The Government has been requested to submit its report, which is due for the review by the Committee of Experts at its November-December 2013 session.

Convention No. 111: In its 2012 observation, the Committee of Experts noted that the Government's report had not been received. It therefore repeated its previous observation recalling that, although section 1 provided that the Labour Code applied to all employers and all workers, with the exception of state public services, regardless of race, sex, civil status, religion, political opinion, national extraction and social origin, the Labour Code contained no provisions prohibiting and defining discrimination in employment and occupation. Act No. 81/003 of 17 July 1981 on the conditions of service of career members of the state public service also lacked anti-discrimination provisions. The Committee urged the Government to make progress in this regard and asked the Government to indicate all steps with a view to including provisions in the Labour Code and Act No. 81/003 defining and prohibiting direct and indirect discrimination, in all aspects of employment and occupation, on at least all the grounds enumerated in the Convention.

The Committee previously noted that certain provisions of the Family Code, of Act No. 81/003 of 17 July 1981, on the conditions of service of career members of the state public services, and of the Legislative Ordinance No. 88-056 of 29 September 1988, respecting the activities of magistrates, constituted discrimination on the ground of sex in employment and occupation contrary to the Convention. The Committee recalled that sections 448 and 497 of Act No. 87/010 of 1 August 1987, enacting the Family Code, appeared to indicate that, in certain cases, a woman had to obtain the authorization of her husband to take up salaried employment, whereas no such obligation was imposed upon the husband. In relation to jobs in the public service, section 8 of Act No. 81/003 of 17 July 1981 and section 1(7) of Legislative Ordinance No. 88-056 of 29 September 1988 provided that a married woman must have obtained the permission of her spouse to be recruited as a career member of the public service or appointed as a magistrate. The Committee having previously noted that the modification of the abovementioned texts had been under way, requested the Government to make progress in bringing the abovementioned provisions, including those in the Family Code, into conformity with the Convention.

In its 2012 direct request, the Committee repeated its previous request recalling that section 137 of the Labour Code provided that women may not be maintained in jobs acknowledged to be beyond their strength and shall be assigned to suitable jobs, and that section 128 of the Code provided that Orders of the Minister of Labour and Social Insurance defined the nature of jobs which were prohibited for women. In this regard, the Committee noted that the National Labour Council had not yet adopted the Order concerning the working conditions of women and defining the nature of jobs prohibited to women, which would replace Ministerial Order No. 68/13 of 17 May 1968. The Committee requested the Government to take the necessary steps to ensure that protective measures for women were strictly limited to maternity protection.

The Committee noted with regret that the Government's report contained no reply to its previous comments. It therefore repeated its previous direct request, noting that sexual harassment as defined by the Order No. 12/CAB-MIN/TPS/114/2005 of 26 October 2005 included any behaviour directed towards another person with the objective of obtaining favour of a sexual nature for oneself or a third person (section 1(1)); and any use of one's authority to exert pressure on a person with the objective of obtaining favours of a sexual nature (section (1(2))). With regard to the issue of proof, section 3 stated that "sexual and moral harassment is proven by all legal means". As regards sanctions, section 4 provided that victims of sexual or moral harassment can resolve their contract for serious misconduct of the other party and section 5 stated that enterprise rules or collective agreements can provide for disciplinary sanctions. While the Committee welcomed the adoption of the Order, it also recalled that sexual harassment also included any conduct that created an intimidating, hostile or humiliating working environment for the recipient, irrespective of whether it aimed at obtaining sexual favours (i.e. hostile work environment). However, such harassment appeared not to be covered by section 1 of the Order. The Committee also noted that the only remedy available to victims of sexual harassment under the Labour Code and the Order was to terminate the employment contract for serious misconduct of the employer, although disciplinary sanctions may be envisaged in enterprise rules or collective agreements. The Committee requested the Government to consider broadening the definition of sexual harassment to include conduct creating a hostile work environment and to envisage the adoption of laws or regulations offering additional avenues for redress to victims of sexual harassment.

The Committee previously noted that, under section 25(2) of Act No. 81/003 of 17 July 1981, issuing the conditions of service of career members of the state public service, women employees were entitled to maternity leave of 14 consecutive weeks. However, where a woman had taken maternity leave, she could no longer during the same year benefit from her right to annual leave. The Committee had emphasized that a restriction of this nature constituted discrimination against women employees as it amounted in practice to substituting maternity leave for annual leave. The Committee requested the Government to supply information on the measures taken to bring the legislation into conformity with the Convention.

The Committee noted that the Government was implementing a gender mainstreaming strategy which, *inter alia*, aimed at promoting women's access to decision-making positions. The Ministry of Gender, Family and the Child was developing a national gender policy. Since 2003, a national strategy to increase girls' access to education had been implemented. The Committee requested the Government to provide further information on the measures taken or envisaged to promote equality of opportunity and treatment of women in employment and occupation, including measures to raise awareness and understanding of the principle of equality at work among men and women, and to enhance women's access to education and training. The Committee also requested the Government to provide, as far as possible, statistical or other information on the participation of men and women in employment in the private and public sectors, and the informal economy, including information on women's share in decision-making positions.

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

The Government has been requested to submit its report, which is due for the review by the Committee of Experts at its November-December 2013 session.

### **Dominican Republic**

Among the relevant ILO Conventions, Dominican Republic has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 45, 87, 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 2012 observation, the Committee of Experts recalled the need to amend section 194 of the Labour Code and section 3(4) of Act No. 41-08 of 2008, which provided for “equal wages for equal work, in terms of capacity, performance and seniority, irrespective of the person performing the work”. It also recalled that article 62(9) of the Constitution of 2010 laid down that “payment of equal wages for work of equal value is guaranteed, without discrimination based on sex or other grounds and under identical conditions of capacity, effectiveness or seniority”. The Committee noted the Government’s statement that in the context of the discussions on the amendment of the Labour Code it was proposed to amend section 194 to align it with the principle of the Convention. The Committee asked the Government to continue to take the necessary steps to ensure that the amendment to section 194 of the Labour Code fully reflected the principle of the Convention and was adopted as soon as possible by the National Congress. The Committee also asked the Government to provide information on the measures taken with a view to fully harmonizing section 3(4) of Act No. 41-08 with the Convention.

The Committee noted the Government’s indication that on 12 January 2012 the Act confirming the National Development Strategy 2010–30 had been adopted, establishing that all public plans, programmes, projects and policies must incorporate gender mainstreaming in the various spheres of action, in order to identify situations of gender discrimination and to adopt actions contributing to gender equity. The Committee observed that, according to the statistics supplied by the Government, there was marked occupational segregation, with women significantly outnumbered by men in traditionally “male” jobs (agriculture and stockbreeding, mining, construction and transport), whereas the unemployment rate for women was twice as high as the rate for men. The Committee asked the Government to take specific measures to tackle the pronounced gender pay gap and to send information in this regard, including on the measures taken in the context of National Plan on Gender Equity 2006–16 and the National Development Strategy 2010–30. The Committee also asked the Government to send information on the measures taken or contemplated to improve women’s access to a greater variety of employment opportunities at all levels.

Convention No. 111: In its 2012 observation, the Committee of Experts recalled concerns about the persistence of instances of discrimination based on sex, particularly mandatory pregnancy testing, sexual harassment and the failure to apply the legislation in force effectively, especially in export processing zones. The Committee noted that the Government provided no information on progress made in adopting the amendments to the Labour Code that concerned sexual harassment and pregnancy testing, or on the measures to support and protect victims of sexual harassment and mandatory pregnancy testing. It noted that the Government provided no information on the scope of section 47(9) of the Labour Code, which prohibited employers from “carrying out any action against a worker which may be regarded as sexual harassment, or supporting or failing to intervene in any such action on the part of the employer representatives”. The Committee recalled that sexual harassment at work and pregnancy testing as a requirement for entering and remaining in employment constituted serious violations of the Convention and must be adequately and effectively addressed in legislation and practice with a view to their elimination and prevention. Furthermore, the Committee recalled that addressing sexual harassment only through criminal proceedings was not sufficient. The Committee again urged the Government to take specific measures, including through the Committee to promote equal opportunities and prevent such discrimination at work, to ensure that the legislation in force is effectively applied, and to take proactive measures to prevent, investigate and punish sexual harassment and pregnancy testing as a requirement for obtaining and keeping a job, and to provide adequate protection for the victims. The Committee also requests the Government as follows: (i) to take the necessary measures to

increase the penalties for such acts and to ensure that the mechanisms for settling disputes regarding discrimination in employment and occupation are efficient and available in practice to all workers, including those in export processing zones; (ii) to provide information on the scope of section 47(9) of the Labour Code and on the status of the proposed amendments to the Labour Code dealing with sexual harassment and pregnancy testing, and expresses the firm hope that the amendments will include a provision expressly prohibiting both quid pro quo and hostile environment sexual harassment and will establish appropriate penalties; and (iii) to provide detailed information on training for judges, labour inspectors and the social partners on sexual harassment and pregnancy testing, including representative samples of the training material used.

The Committee recalled its previous comments referring to discrimination against Haitians and dark-skinned Dominicans. The Committee noted with interest the adoption on 19 October 2011 of Regulation No. 631-11 to the General Migration Act, section 32 of which established that the same fundamental rights applying to nationals were guaranteed to resident foreigners. Section 35(III) provided that the Ministry of Labour must ensure that the equality guaranteed in the Constitution was applied to the conditions of work of immigrants and that the labour law was enforced. The Committee noted that the study conducted by the Dominican Labour Observatory (OMLAD) highlighted a marked wage gap between immigrant and Dominican workers in these sectors and the need to ensure that the fundamental rights of immigrant workers were respected, that the supervisory mechanisms were reinforced and that access to justice was guaranteed. Furthermore, a labour migration unit had been established in the Ministry of Labour (Resolution No. 14/2012), the aim of which was to oversee compliance with the labour regulations applying to foreigners, disseminate information on the rights of foreigners and ensure respect for migrants' rights through inspection procedures. The Committee also noted that a committee had been established to promote equal opportunities and prevent discrimination at work within the Ministry of Labour. While taking due note of all the measures adopted by the Government to address the issue of discrimination against Haitians and dark-skinned Dominicans, the Committee recalled that it had been dealing with these concerns for a number of years and highlighted the need to complement the measures adopted with practical implementation. The Committee accordingly asked the Government to take the necessary measures to ensure that the Regulation to the General Migration Act, No. 631-11 of 2011, was fully implemented to ensure there was no discrimination against migrant workers based on any of the grounds enumerated in the Convention and to provide specific information in this regard. Furthermore, it hoped that the measures adopted by the labour migration unit and the committee to promote equal opportunities and prevent discrimination at work would enable the Convention to be fully applied and would ensure that workers of Haitian origin and dark-skinned Dominicans would not suffer discrimination based on race, colour or national extraction, including irregular workers.

In its 2012 direct request, the Committee again asked the Government to provide information on the following: (i) labour market statistics, disaggregated by sex, economic sector and occupation; (ii) women's access to vocational training, including the courses in which women and men are registered and the measures adopted to encourage the participation of women in jobs and occupations in which men predominate; (iii) the measures taken under the Strategic Gender Plan and their impact in terms of improving women's access to employment and occupation and to training; and (iv) whether the childcare facility of Santo Domingo Autonomous University is also open to male students with children.

At its 102nd session of the International Labour Conference in June 2013, the Committee on the Application of Standards (CAS) recalled that it had raised issues with respect to discrimination in employment and occupation against Haitians and dark-skinned Dominicans, discrimination based on sex, including mandatory pregnancy testing and sexual harassment, and mandatory testing to establish HIV status.

The CAS noted the information provided by the Government in relation to recent developments, including with respect to the strengthened legislative and regulatory framework addressing discrimination generally, and discrimination against migrants in particular, as well as clearly prohibiting HIV testing as a requirement for obtaining or keeping a job. It also noted the inter-institutional agreement aimed at ensuring coordinated action regarding requests for registration of employment contracts of migrants and the issuance of visas and identity documents, as well as the awareness-raising activities that had been undertaken. It noted further the establishment of the Technical Committee for Equal Opportunities and Non-discrimination, and the elaboration of the Strategic Development Plan, 2013–16.

Welcoming the initiatives taken by the Government, the CAS also noted that the practical impact of these measures remained unclear. The CAS, therefore, requested the Government, in collaboration with employers' and workers' organizations, to take firm steps to ensure workers were protected against discrimination in practice on all the grounds enumerated in the Convention, including workers of Haitian origin and dark-skinned Dominicans, migrant workers in an irregular situation, women working in export processing zones, and workers in construction and in agriculture. It also urged the Government to continue and reinforce its efforts to raise awareness in this context and to bring an end to the practice of pregnancy testing and HIV testing to gain access to and to maintain a job. The CAS also asked the Government to ensure the efficacy and accessibility of monitoring and enforcement to address discrimination, and to ensure that complaints mechanisms were accessible to all workers in practice, including for those not represented by trade unions.

The CAS requested the Government to provide a report to the Committee of Experts, including detailed information regarding all issues raised by the CAS and the Committee of Experts, for examination at its next meeting .

### **Serbia**

Among the relevant ILO Conventions, Serbia has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 87, 97, 98, 105, 122, 138, 143, 156, 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 the gender wage gap was 15 per cent. The Committee 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 any available studies and reports on the gender pay gap and its underlying causes. The Committee asked the Government to provide information 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, as well as on the results achieved in this respect.

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 do not require the same level of education, working ability, responsibility as well as physical and intellectual work, but were nevertheless overall of equal value. The Committee also encouraged the Government to carry out awareness-raising activities among workers in

respect of the legal framework for submitting a claim alleging discrimination in remuneration.

Convention No.111: In its 2011 observation, the Committee of Experts 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, as well as 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 asked 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 further requested the Government to provide detailed information on the implementation of the Law on Gender Equality of 2009, with respect to employment and occupation. With regard to sexual harassment, the Committee noted 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 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 requests the Government to indicate whether and how sexual harassment was covered by the new law on gender equality. The Committee reiterated its request for information on any cases of sexual harassment at work addressed by the competent authorities and any measures taken to address and prevent sexual harassment in employment and occupation, including awareness-raising and training activities.

Convention No. 156: In its 2012 direct request, the Committee of Experts noted the adoption of the Law on Gender Equality of 2009 (Official Gazette 104/09), and the Government's indication in this regard that absence from work due to pregnancy and parenthood must not hinder selection for a higher position, professional developments, nor become the ground for demotion or termination of the labour contract. The Committee asked the Government to provide information on the practical application of the Law on Gender Equality of 2009 with respect to promoting a sharing of family responsibilities between men and women, as well as a copy of this law.

The Committee recalled sections 91–100 of the Labour Code, which provided for leave entitlements and reduced working time, and noted that an employee was also entitled to paid leave for a total duration of seven working days in a calendar year in the event of serious illness of a member of his/her immediate family (section 77 of the Labour Code). While noting the Government's indication that the Government did not have any data on the practical implementation of the provisions concerning leave entitlements and reduced working time, the Committee encouraged the Government to take steps to compile statistical information, disaggregated by sex, on the extent to which men and women workers make use of the leave entitlements and reduced working time under sections 77 and 91–100 of the Labour Code, respectively, with a view to enabling workers to reconcile work and family responsibilities.

The Committee noted that an employed woman had the right to take maternity leave (leave for pregnancy and childbirth), as well as leave for childcare, for the total length of 365 days (section 94(1), (3), and (4) of the Labour Code); and that an employed woman was entitled to take maternity leave for a total duration of two years for a third and any subsequent child, or when she gave birth to three or more children from her first pregnancy, as well as when she gave birth to one, two, or three children, and gives birth to two or more children in the subsequent delivery (section 94a(1) and (2) of the Labour Code). During the period of maternity leave (until three months after the childbirth) provided for under section 94(3) and section 94a(1) and (2) of the Labour Code, a father may use the right to leave with wage compensation. However, such right was limited to cases when a mother deserted the child, had died or was prevented from caring for the child due to other justified reasons, including serving a prison sentence, or being severely ill (section 94(5) and 94a(4) of the Labour Code, respectively). While welcoming these provisions, the Committee drew the Government's attention to the fact that when legislation reflected the assumption that women should have the main responsibility for family care and the household, it reinforced stereotypical attitudes regarding the roles of men and women and existing gender inequality. The Committee asked the Government to indicate any measures taken or envisaged to ensure that such entitlements were available to men and women on an equal footing.

The Committee noted the statistical data provided by the Government concerning the number of children who had been enrolled in pre-school institutions, including nursery school (up to 3 years of age) and kindergarten (3–6 years of age) in the year 2009. The Committee asked the Government to provide further information on any measures taken or envisaged to provide adequate childcare and family services and facilities, indicating the progress made in extending coverage of care services and facilities for children, as well as the results achieved thereof. The Committee also requested the Government to provide information on the number and nature of services and facilities that existed to assist workers with family responsibilities regarding other dependent members of their family.

### **United Kingdom**

Among the relevant ILO Conventions, United Kingdom has ratified Conventions Nos. 100 and 111. It has also ratified Conventions Nos. 29, 87, 97, 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 direct request, the Committee of Experts noted that the majority of the provisions of the Equality Act 2010, which had repealed the Equal Pay Act 1970, came into force in October 2010, with some provisions, including those related to the public sector equality duty, scheduled to enter into force in April 2011. The Committee noted that the Equality Act, as in the Equal Pay Act, continued to provide for equal pay between men and women for like work, work rated as equivalent, and work of equal value, and that work of equal value continued to be defined in terms of the demands with reference to factors such as effort, skill and decision-making (section 65). It also noted that where a question arose before the employment tribunal as to whether one person's work was of equal value to another's, the tribunal may require a panel of independent experts to prepare a report on the question (section 131). The Committee noted that pursuant to section 78 of the Act, "Regulations may require employers to publish information relating to the pay of employees for the purpose of showing whether, by reference to factors of such description as is prescribed, there are differences in the pay of male and female employees." The Government indicated that with the adoption of the Equality Act 2010, the gender equality duty, which had required public authorities to prepare and publish a gender

equality scheme and to consider the need for objectives to address the causes of the gender pay gap, had been replaced by a new single equality duty.

The Committee noted that according to the Office for National Statistics, the gender pay difference for all employees had decreased from 22 per cent in 2009 to 19.8 per cent in 2010 (based on median hourly earnings); in 2010, the gender pay difference had been 19.2 per cent in the public sector and 27.5 per cent in the private sector. The largest gender pay difference had been for the financial and insurance activities sectors at 39 per cent. In terms of occupations, the Committee noted that the narrowest pay gap in 2010 had been for professional occupations (1.6 per cent) and the widest for skilled trades occupations (31.4 per cent). The Committee also noted the Government's indication that the gender pay gap had continued to decrease among lower-paid jobs, and that many women (who in 2009 made up two-thirds of those in jobs paid at the national minimum wage) had positively benefited from the national minimum wage.

The Committee noted the Government's indication that the Equality Act 2010 promoted equal pay in the private sector as it prevented the enforcement of pay secrecy clauses in employment contracts. The Government also stated that it was "keen to develop further voluntary approaches to help employers identify and correct wage gaps", and that the search would continue for further ways to encourage transparency, and on gathering and publishing evidence on the effectiveness of the equal pay audits. The Committee also noted the continuation of the Scottish "Close the Gap" partnership project, focusing on large private sector companies, with an emphasis on awareness raising and encouraging action to address occupational segregation, as well as a similar partnership campaign in Wales.

The Committee asked the Government to provide information on the nature and number of equal pay reviews, and any further steps taken to encourage transparency and to gather and publish evidence on the effectiveness of equal pay audits.

**Convention No. 111:** In its 2011 observation, the Committee of Experts noted that the majority of the provisions of the Equality Act 2010, which the Government indicated brought together nine major pieces of discrimination legislation and approximately 100 statutory instruments, came into force in October 2010, with some provisions, including those related to the public sector equality duty, scheduled to enter into force in April 2011. Legislation that had been repealed as a consequence of the adoption of the Equality Act included the Sex Discrimination Act 1975, the Race Relations Act 1976, the Sex Discrimination Act 1986, and the Disability Discrimination Act 1995.

The Committee noted with interest that the new Act addressed discrimination on the basis of an expanded range of grounds (protected characteristics set out in section 4), namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation, a number of which were additional grounds as foreseen in Article 1(1)(b) of the Convention. Discrimination on these grounds was prohibited in access to employment, promotion, transfer, training, terms and benefits, facilities or services, dismissal or any other detriment, as well as occupational pensions; also with respect to contract workers; and in the context of employment services, which included vocational training and guidance (sections 39–41, 55–56 and 61). The Committee also noted that positive action was provided for in relation to recruitment and promotion (sections 158–159). The Committee noted further that the existing race, disability and gender equality duties had been brought together under the Equality Act, and there was now a single equality duty for public bodies, covering all the protected characteristics listed above, with the exception of marriage and civil partnership (section 149(7)). Pursuant to section 149, a public authority must have due regard to the need to eliminate discrimination, harassment and victimization; advance equality of opportunity; and foster good relations between those who shared a protected characteristic and those who did not. It also allowed for affirmative action. Pursuant to section 153, a Minister of the Crown, the Welsh Ministers and the Scottish Ministers may by regulation impose duties on a public

authority, and section 155 provided for the possibility of imposing duties on a public authority that was a contracting authority in connection with its public procurement functions through regulations. The Committee also noted that the public sector equality duty “does not confer a cause of action at private law” (section 156). The Committee asked the Government to provide information on the implementation of the Equality Act 2010 as it related to employment and occupation, as well as information on the adoption of relevant regulations under the Act, including with respect to Wales and Scotland. The Committee also requested information on the application and impact of the public sector equality duty, including its application in the context of public procurement, as well as specific information on how the equality duty was monitored and enforced. The Committee also asked the Government to provide specific information on the role of the Government Equality Office, the Equality and Human Rights Commission and the Women and Work Commission in the implementation of the Act. Noting the Government’s indication that it was considering how to implement the new equality duty in a way that was best for business, public bodies and the public, the Committee asked the Government to provide specific information on steps taken in this regard.

In the context of the austerity measures adopted in response to the current economic downturn, the Committee urged the Government to monitor carefully the impact of the austerity measures on the employment situation of groups particularly vulnerable to the impact of the economic crisis, so as to address effectively any direct and indirect discrimination that may occur in employment and occupation on the grounds set out in the Convention. The Committee further hoped that the Government would make every effort to ensure that the measures envisaged under the Equality Act and progress achieved through previous action taken to address discrimination and promote equality of opportunity and treatment would not be adversely affected by the austerity measures.

In its 2011 direct request, the Committee noted the provisions of the Equality Act prohibiting harassment, which included sexual harassment, including both quid pro quo and hostile environment sexual harassment (sections 26 and 40). Noting the absence of a reply from the Government, the Committee again requested information on the impact of the action plan on preventing sexual harassment and improving the mechanisms to deal with sexual harassment complaints in the armed forces, and on the implementation of the new Partnerships Agreement between the Ministry of Defence and the Equality and Human Rights Commission with respect to the equality strands (namely, equality target groups). The Committee also requested information on any further measures taken to prevent and address sexual harassment in employment and occupation.

The Committee noted that the Equality Act addressed combined discrimination, which did not, however, cover the protected grounds of marriage and civil partnership or pregnancy and maternity (section 14(2)). Pursuant to section 14, discrimination can arise because of a combination of two relevant protected characteristics, though it was limited to cases of direct discrimination, and the complainant needed to show that there had been direct discrimination because of each of the characteristics in the combination taken separately. The Committee asked the Government to indicate whether consideration was being given to extending combined discrimination to cases of indirect discrimination, or to addressing the intersecting nature of various grounds of discrimination. The Committee also requested information on the rationale for excluding certain protected grounds from being raised as combined discrimination, as well as for limiting combined discrimination to only two grounds.

The Committee noted with interest the information provided regarding the impact of the gender equality duty on increasing women’s representation in areas where they had been traditionally under-represented, in particular in overcoming barriers to recruiting women as firearms officers in the Metropolitan Police through positive action measures. The Government indicated that through consultation several barriers faced by women had been

identified, namely the written application process, the job-related fitness test, a lack of information and guidance, myths about the department, and lack of support. A range of action had been undertaken to address these barriers, including training female firearms officers to mentor female applicants, coaching on how to complete the application form, and acknowledging the difference between men and women's physiologies, providing training programmes equipping women to pass the fitness test under the same conditions as men. The Committee noted further that according to the Government, there was no specific statutory duty on public authorities in Wales to prepare gender equality schemes, though they were subject to the general equality duty. The Committee also noted the information provided on the range of measures undertaken by the Women and Work Commission, including projects to increase the availability of quality, part-time work, the Women's Enterprise Task Force to accelerate women's enterprise development, the continuation of the Women and Work Sector Pathways initiative which supported innovative projects to help women progress in their careers, including in areas where they had been under-represented, and measures taken to ensure that career advice was free from gender stereotyping. The Committee asked the Government to provide information on the impact of the new single equality duty on promoting equality of opportunity and treatment between men and women in the public sector, including in Wales and Scotland, as well as on the adoption of gender equality schemes. It also asked the Government to provide information on any follow-up to the measures taken by the Women and Work Commission.

The Committee noted the information provided regarding the amendments to the Childcare Act 2006 and updates on the implementation of the Work and Families Act 2006, including extending the right to request flexible working hours to parents of children under 16, and providing additional paternity leave to working fathers. The Government indicated its continued commitment to extending the right to request flexible working hours to all and to promoting a system of shared parental leave. The Committee asked the Government to continue to provide information on the measures taken to promote equality of opportunity and treatment for workers with family responsibilities, including with respect to the amendments to the Childcare Act 2006 on the availability of early childcare services and the implementation of the Work and Families Act, including the number of men and women requesting, and those undertaking, flexible working arrangements. It also asked the Government to provide information on measures taken to extend the right to request flexible working hours and to promote a system of shared parental leave.

The Committee noted that pursuant to schedule 22 of the Equality Act, protective measures with respect to women in the context of Part 5 of the Act (work) were permitted. The Committee requested the Government to provide information on the specific restrictions on women's employment currently in force or envisaged, and the rationale for such restrictions.

The Committee noted the Government's indication that pursuant to the Equality Act, employment tribunals were able to make recommendations in discrimination cases to benefit the wider workforce and prevent similar discrimination from occurring in the future (section 124). The Committee requested the Government to continue providing information on the judicial and administrative decisions involving questions relating to the application of the Convention, and to provide specific information on any broader recommendations of the employment tribunals regarding discrimination in employment and occupation, and the impact of such recommendations on the wider workforce.